

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

MEYNARD DESIGNS, INC. AND EARTH,
INC.

Plaintiffs and
Counterclaim-Defendants,

v.

EARTH PRODUCTS INC.

Defendant and
Counterclaim-Plaintiff.

EARTH PRODUCTS INC.

Third-Party Plaintiff and
Counterclaim-Defendant,

v.

PLANET, INC.

Third-Party Defendant and
Counterclaim-Plaintiff.

CIVIL ACTION NO. 05 cv 11781 NMG

**[REDACTED] DERRICK W. TODDY DECLARATION IN SUPPORT OF EARTH
PRODUCTS INC.'S MOTION FOR PARTIAL SUMMARY JUDGMENT
THAT PLAINTIFF MEYNARD DESIGNS, INC. ABANDONED THE TRADE
ASSOCIATED WITH THE "EARTH" AND "EARTH SHOE" MARKS¹**

I, Derrick W. Toddy, the undersigned, declare:

1. I am an attorney at law, and an associate at the law firm of Klarquist Sparkman, LLP, counsel for Earth Products Inc. ("Earth Products") in the above-captioned matter. I am

¹ This redacted declaration and the attached public exhibits are being filed with the Court's electronic filing system. A full version of the declaration and all remaining exhibits thereto are being filed separately under seal, pursuant to the parties' Stipulated Protective Order and the Court's November 8, 2007 Order Granting Motion To Impound.

over the age of 18 and competent to testify to the matters contained in this Declaration. I have personal knowledge of the matters stated herein unless indicated otherwise.

2. REDACTED

3. Exhibit 2 is a true and correct copy of the booklet, "The Earth Brand Negative Heel Shoe," bearing a copyright date of 1975 to Kalso Systemet, Inc.

4. Exhibit 3 is a true and correct copy of two advertisements: "The Secrets of the Earth Sole," and "Why Everybody's Pretending They're Us," bearing a copyright date of 1975 to Kalso Systemet, Inc.

5. REDACTED

6. Exhibit 5 is a true and correct copy of an advertisement for Earth brand shoes, entitled: "Yoga Origins – The Anne Kalso Story," produced in this litigation by plaintiff Earth, Inc at EV029490.

7. Exhibit 6 is a true and correct copy of United States Patent No. 3,305,947, which issued on February 28, 1967.

8. Exhibit 7 is a true and correct copy of a November 15, 1976 article from Forbes magazine, entitled, "Down At The Heels, But Fat In The Pocketbook."

9. Exhibit 8 is a true and correct copy of an October 22, 2001 letter from Charles F. Liberge, Executive Vice President of the Earth Footwear Division of Meynard Designs, Inc., addressed to "Dear Retailer."

10. Exhibit 9 is a true and correct copy of a document entitled: "Footwear: a glossary of terms" printed on July 14, 2006 from the website at the following URL:
<http://podiatry.curtin.edu.au/shoeglos/content.html>.

11. Exhibit 10 is a true and correct copy of a document entitled: "Frequently Asked Questions (FAQs)," printed on June 28, 2006 from the Roots Direct website at the following URL: http://canada.roots.com/customer_faq.aspx.

12. Exhibit 11 is a true and correct copy of a document entitled: "Clothes of the 70s," printed on November 30, 2000 from the Clothes of the 70s website at the following URL: <http://www.inthe70s.com/generated./clothes.shtml>.

13. REDACTED

14. REDACTED

15. Attached at Exhibit 14 is a true and correct copy of selected portions of "Answers to Compiled List of Questions for Deposition of Mr. Ascari Tshaka," signed by Mr. Tshaka on June 21, 2007.

16. Exhibit 15 is a true and correct copy of Aorta, Inc. advertising materials, produced in this litigation by Meynard Designs, Inc. at M002910-2920.

17. REDACTED

18. Exhibit 17 is a true and correct copy of selected portions of the Boston Business Journal, Volume 20, Number 19, dated January 12-18, 2001, including an article entitled, "'70s-style shoe is ready to come back down to earth.'"

19. REDACTED

20. Exhibit 19 is a true and correct copy of a July 12, 1993 facsimile cover sheet from Frank H. Foster of Kremblas, Foster & Millard to Kenneth Cummins, informing Mr. Cummins of the contact person for Tonus, Inc.

21. REDACTED

22. REDACTED

23. REDACTED

24. REDACTED

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26. REDACTED

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28. REDACTED

29. Exhibit 28 is a true and correct copy of "The Wal*Mart Shopper," with "Prices good today through April 4, 1995," announcing "Flashback to . . . Earth Shoe."

30. REDACTED

31. REDACTED

32. REDACTED

33. REDACTED

34. REDACTED

35. REDACTED

36. Exhibit 35 is a true and correct copy of an Assignment dated June 19, 1985, from Anne S.J. Kalso to Tonus Inc.

37. Exhibit 36 is a true and correct copy of a press release dated July 31, 2003, entitled: "SPRING 2004 AND EARTH IS LIGHT AND EASY."

38. Exhibit 37 is a true and correct copy of a press release dated February 10, 2002, entitled: "EARTH FOOTWEAR UNVEILS THE EARTH CLASSIC COLLECTION."

39. Exhibit 38 is a true and correct copy of a press release dated January 20, 2004, entitled: "EARTH GOES VEGAN."

40. Exhibit 39 is a true and correct copy of an article by Julie Dunn, from the November 17, 2002 National Edition of The New York Times, entitled: "Resurrecting A Symbol Of Comfort."

41. Exhibit 40 is a true and correct copy of an article by Barbara Schneider-Levy, from the December 18, 2000 issue of Footwear News, entitled: "Back to Earth" bearing the subheading "After a quarter of a century, Earth Brand shoes are reintroduced to a new millennium market."

42. Exhibit 41 is a true and correct copy of an article by Mary Challender, from the April 12, 2003 issue of The Des Moines Register, entitled: "Get down-to-Earth" bearing the subheading "'70s footwear plods its way back to store shelves."

43. Exhibit 42 is a true and correct copy of an article by Monica Orosz, from the May 28, 2003 issue of the Charleston Daily Mail, entitled: "The clunky Earth shoe gets a redesign."

44. Exhibit 43 is a true and correct copy of an article from the Spring 2002 issue of ForbesFYI Magazine entitled: "CAN THE AFRO BE FAR BEHIND?"

45. Exhibit 44 is a true and correct copy of an article by Valli Herman-Cohen from the July 2, 2002 issue of the Los Angeles Times entitled: "Sole Survivor" bearing the subheading "Redesigned Earth Shoe is making strides in niche market."

46. Exhibit 45 is a true and correct copy of a reprint of an article by Mary Challender, from the April 12, 2003 issue of The Des Moines Register, entitled: "Get down-to-Earth" bearing the subheading "'70s footwear plods its way back to store shelves."

47. Exhibit 46 is a true and correct copy of a reprint of an article by Tina Cassidy, from the December 20, 2001 issue of The Boston Globe, entitled: "THE LOOK; HEAD OVER HEELS FOR EARTH SHOES."

48. Exhibit 47 is a true and correct copy of a reprint of an article by Ginia Bellafante, from the October 30, 2001 issue of The New York Times, entitled: "Front Row" bearing the subheading "Earth Shoe Returns, Walking Tall."

49. Exhibit 48 is a true and correct copy of an article from the September 16, 2002 issue of Newsweek magazine, entitled: "Earth Shoes Feet of Clay."

50. Exhibit 49 is a true and correct copy of an article by Jean Patteson, from the January 31, 2002 issue of the Orlando Sentinel, entitled: "Revamped Earth shoes bring back '70s sole."

51. Exhibit 50 is a true and correct copy of a reprint of a November 8, 2005 article by Deanna Larson, from The City Paper Online, entitled: "Granola can be trendy."

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82. Exhibit 81 is a true and correct copy of an April 4, 2005 "Market Wire" document entitled "Earth Shoe Design Offers Health Benefits & Promotes Weight Loss," printed from the following URL:

http://www.marketwire.com/mw/release_printer_friendly?release_id=83900&category=.

83. REDACTED

84. Exhibit 83 is a true and correct copy of an advertisement entitled "Healthy Shoes NATURAL POSTURE," bearing a copyright date of 2004 to "M.D.I." and produced in this litigation by Earth, Inc., at EV0038513.

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99. Exhibit 98 is a true and correct copy of a January 14, 2002 article by Bonnie Bing from The Honolulu Advertiser, entitled, "Nostalgic items out to regain footing."

100. REDACTED

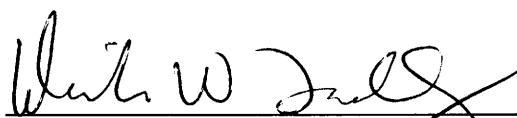
101. REDACTED

102. REDACTED

103. Attached at Exhibit 102 is a true and correct copy of an article from Science Digest entitled "Negative Heels: Creative Discomfort?", which was produced by plaintiff Earth, Inc. in this litigation at EV025609.

104. Attached at Exhibit 103 is a true and correct copy of an article by Mark martin entitled "Is There Anything Positive About Negative-Heel Shoes?", which was produced by plaintiff Earth, Inc. in this litigation at EV025610-11.

EXECUTED this 31st day of October, 2007, in Portland, Oregon.


Derrick W. Toddy
Counsel *pro hac vice* for Earth Products Inc.

CERTIFICATE OF SERVICE

I certify that this [REDACTED] DERRICK W. TODDY DECLARATION IN SUPPORT OF EARTH PRODUCTS INC.'S MOTION FOR PARTIAL SUMMARY JUDGMENT THAT PLAINTIFF MEYNARD DESIGNS, INC. ABANDONED THE TRADE ASSOCIATED WITH THE "EARTH" AND "EARTH SHOE" MARKS is being filed through the Court's electronic filing system, which serves counsel for other parties who are registered participants as identified on the Notice of Electronic Filing (NEF).

Counsel for other parties are also being served by electronic mail on the date of electronic filing.

Dated: October 31, 2007

By: /s/ Derrick W. Toddy
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

<p>MEYNARD DESIGNS, INC. AND EARTH, INC.</p> <p>Plaintiffs and Counterclaim-Defendants,</p> <p>v.</p> <p>EARTH PRODUCTS INC.</p> <p>Defendant and Counterclaim-Plaintiff.</p>	<p>Civil No. 1:05-CV-11781 NMG</p> <p>Judge Nathaniel M. Gorton</p>
<p>EARTH PRODUCTS INC.</p> <p>Third-Party Plaintiff and Counterclaim-Defendant,</p> <p>v.</p> <p>PLANET, INC.</p> <p>Third-Party Defendant and Counterclaim-Plaintiff.</p>	<p><u>CONTAINS CONFIDENTIAL INFORMATION SUBJECT TO A PROTECTIVE ORDER</u></p> <p>FILED UNDER SEAL WITH THE COURT IN ACCORDANCE WITH THE ASSENTED-TO MOTION TO FILE UNDER SEAL FILED ON OCTOBER 31, 2007 (DOCKET #67) and PER ORDER DATED NOVEMBER 8, 2007</p>

EXHIBIT 1

FILED UNDER SEAL

EXHIBIT 2



The earth[®] brand negative heel shoe



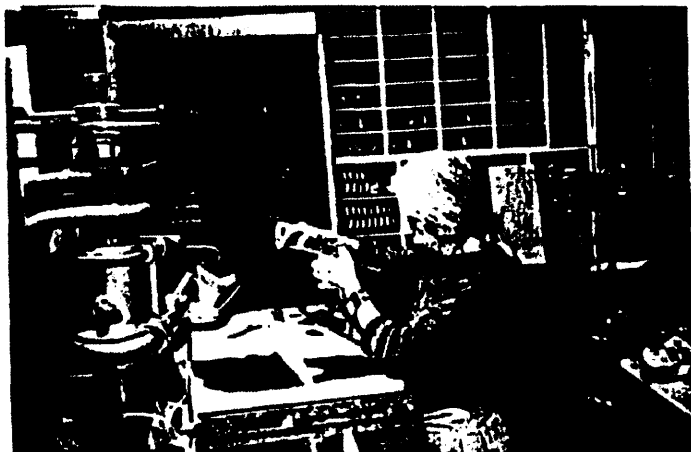
No brand of shoe in the history of the shoe industry has received the acclaim bestowed upon the EARTH[®] brand shoe. The world's first negative heel shoe, with its unique patented sole, has been the subject of hundreds of articles in magazines as diverse as Der Spiegel, Harper's Bazaar and Time and in newspapers ranging from Paris Express to the New York Times to the Village Voice. The EARTH[®] brand negative heel shoe has been discussed on many television programs such as "To Tell The Truth", CBS and NBC News, and the "Johnny Carson Show". The purpose of this booklet is to tell how the shoe that was born in the mind of a remarkable woman has, in so short a time, become a major brand name known throughout the world.

1



How It All Began

Anne Kalso, a Danish Yoga teacher, was born on the island of Kalsoy (from which she derived her name), one of the Faroe Islands, on the Arctic Circle. She was brought to Copenhagen when she was a young girl. An early attraction to ancient cultures and philosophies led to her intense interest in the well-being of the mind and body. She became a meditator and a vegetarian years before these methods for self-improvement came into vogue. Her Yoga studies took her to Zurich and later to Santos, Brazil. It was here, in the course of her studies and experiments, that she observed that by flexing the foot or lowering the heel one could achieve a physical feeling similar to that attained in the Lotus position. This awareness inspired her to develop a primitive version of a sandal with the heel lower than the sole. Anne returned to Denmark and over a period of ten years developed her shoe to the form it takes today. And the shoe continues to evolve. Anne Kalso now lives in Toronto and works closely as an adviser to the company developing new and more advanced products.

Two Americans Meet Anne Kalso

Raymond and Eleanor Jacobs were in Copenhagen in the summer of 1969 where Eleanor purchased a pair of Anne Kalso's shoes. It was in Norway, after wearing the shoes for two weeks, that she realized how remarkable the shoe really was. Raymond phoned Anne from Norway and asked if the shoes were available in the U.S. When she answered, "No", Raymond asked her if she would be interested in talking to him about possible distribution. She asked him if he was in the shoe business and he answered that he was not. "In that case, I will be happy to talk to you", she answered. The Jacobs were later to learn that Mrs. Kalso had been approached by many shoe companies with similar questions, but she rejected their proposals as she felt that they did not really understand the significance of her product. After several meetings back in Copenhagen, Anne and the Jacobs developed a respect and mutual trust for each other.



Eleanor Jacobs' first pair of Anne Kalso's negative heel shoe.





The First EARTH® Shoe Store In The U.S.

The Jacobs returned home in September, 1969 and prepared to open the first EARTH shoe store on East 17th Street in New York City. April 1, 1970, was opening day which, coincidentally, was the first celebration of Earth Day in the U.S. and around the world. It was then and there that Anne Kalso's shoe was named EARTH® by Raymond Jacobs. East 17th Street is a residential street far from the traditional shopping traffic sought after by retailers of any product. Raymond and Anne agreed that the only way to introduce this revolutionary shoe to America was to open quietly and depend on word-of-mouth recommendations. They were right. The store did no advertising in the early months. Friends, relatives, students and passers-by were the first customers. And then friends brought in friends, who, in turn, brought in more friends.





The EARTH® Brand Shoe Catches On

Sales began to grow ... from ten pairs a week to twenty to thirty. It was at this time that the first important newspaper story was published. Blair Sabol, a popular columnist with The Village Voice bought a pair and was so impressed that she devoted a lengthy article to the benefits of the shoe. Her regular column was entitled "Outside Fashion" and the EARTH® shoe certainly qualified in that category. Sales soared immediately. Most of the customers were either health-oriented students or older people looking for an alternate shoe to the many uncomfortable shoes they had worn in the past. Called "ugly" by most, the EARTH® shoe became beautiful to those who wore it.

Unsolicited letters and testimonials acclaiming the virtues of the EARTH® shoe began to pour into the 17th Street store. Young people became the most effective communication system for spreading "the word" about this exciting new shoe. Their unprejudiced attitude toward the look allowed them to accept the EARTH® shoe for its function. The EARTH® shoe became part of the "Casual Revolution" which started on the campuses and not in the fashion houses of Paris. Now, years later, the couturiers are designing in denim and the commercial shoe manufacturers are imitating the look of the EARTH® brand shoe. But none have equalled the EARTH® negative heel shoe. As with all things, there are those who create, and those who imitate.

Other People Open Earth Shoe Stores

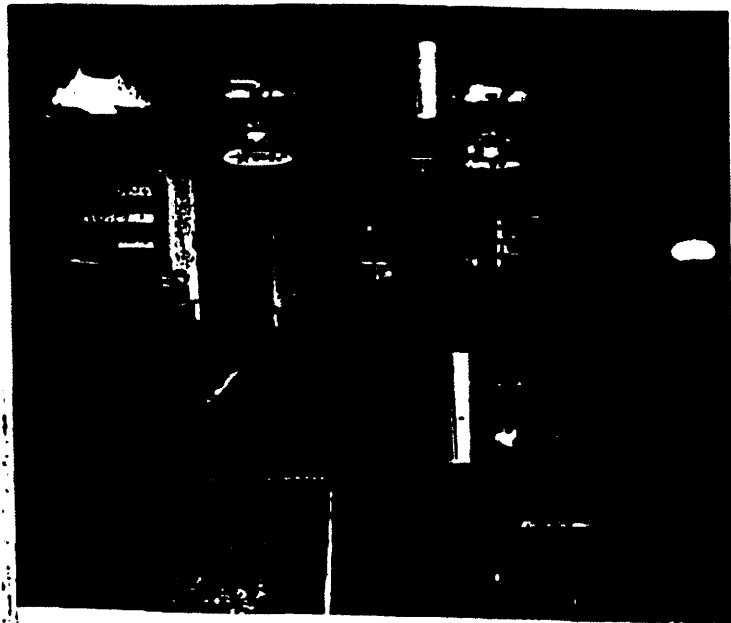
The first store was open for about six months when customers, who believed in the shoe and were attracted to the way the Jacobs' did business, began making inquiries about how they could get involved in selling the EARTH® negative heel shoe. The first stores were opened by satisfied customers, mostly in university towns. The "ugly" shoe was getting more beautiful all the time.

Late in 1972, the company bought a factory in New England and the first EARTH' brand shoes made in America started rolling off the production line. The difficult problems of import were solved and the company was able to broaden its styling to fit American tastes without compromising the unique function of the shoe.

A Flood Of Publicity

In early 1974 Time Magazine ran an extensive story on the EARTH' brand shoe. The company's first national ad campaign ran at about the same time. As a result there was a sudden intense demand by the public beyond the capacity of the factory and the company could not keep up with the store owner's unanticipated needs. Lines formed outside EARTH' shoe stores across the country. This success stimulated a proliferation of cheap copies which began to flood the market. These "knock-offs", as they are known in the trade, reinforced the validity of the EARTH' shoe, the original negative heel shoe. Anne Kalso and Eleanor Jacobs appeared on television shows across the country. Celebrities bought the shoes. The Metropolitan Museum of Art placed the EARTH® shoe in its permanent costume collection. The EARTH' shoe became "officially" beautiful to such a degree that the company found it necessary to place a full page ad in leading national magazines with the unusual headline "Please Be Patient, We're Making Our Shoes As Fast As We Can."







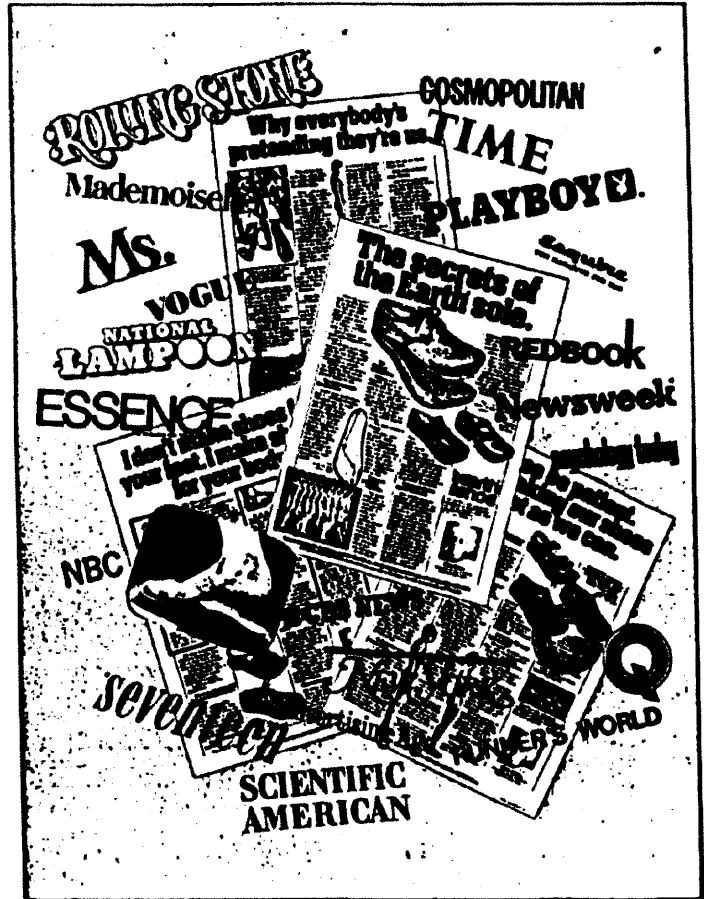
How EARTH® Brand Shoes Are Sold

There are now about 100 stores selling the EARTH® brand shoe in the U.S. The company owns fourteen of them. The rest are privately owned. A major expansion is now being planned. What started as a "cult" item has become a major brand. The EARTH® negative heel shoe is now being worn by all age groups in every community. Many viable locations are available for the opening of new stores. It is not a franchise operation. There are no franchise fees, no percentages taken out of sales. The company is the seller and the store owners are the buyers. They totally own their business. The company guides them by example and suggestion. Every penny is invested in their own business, i.e., inventory, fixtures and start-up costs. There are no hidden costs. It is estimated that at the present time, the capital required to open an EARTH® shoe store is anywhere from \$50,000 to \$100,000, depending on market, location, size of the store, and the cost necessary for renovation or building construction.



HOW THE COMPANY HELPS THE STORE OWNER

The company is a major advertiser in national periodicals and on TV. Its advertising agency is a highly creative organization which has done an outstanding job in helping the EARTH® shoe become an important national brand. The Jacobs, who have extensive advertising background, work very closely with the agency.



Marketing Research

The company employs advanced market research methods to aid its long range planning. A recent study made by a leading market research firm indicated a remarkable national recognition of the EARTH® brand. The information derived from this report and other research projects underway and planned for the future will be of great value in planning advertising, marketing projects and new product development. The maintenance of consumer awareness of corporate and product identity is one of the continuing priorities of Kalso Systemet, Inc.

Public Relations

The company is alert and sensitive to the value of good public relations. Over the past years it has retained the services of a Public Relations agency which has done an outstanding job of maintaining and building the company's image in the public eye. The agency helps the store owners by advising them on how to promote the product and their business in their community.



Local Advertising

The stores, company as well as private, do their own local advertising. However, upon request from a store owner, the company supplies ads, or mats as they are called in the advertising business, which are prepared at the company's expense. The store owner may or may not use them, as they see fit. Here again, the record speaks for itself. The most recent local retail campaign used by the stores to announce the "First Sale on EARTH® shoes" was an outstanding success.

Some Editorial Comments About The EARTH® Brand Shoe

"Have you heard about the Earth shoes? ... Anyway, it's one of those things that draw testimonials like flies. The shoes are strange to look at and strange to wear. They hurt for the first few days and then they're dynamite... the oxfords are the best pair of shoes I've ever worn."

LAST WHOLE EARTH CATALOG

"The American shoe industry owes Anne Kalso a great debt. Perhaps no other single item has done so much for an industry as Kalso's negative heel Earth shoe."

FOOTWEAR NEWS

"Earth shoes carry you back to nature ..."
COSMOPOLITAN

"You can utilize walking time to exercise leg muscles."

VOGUE

"I gave them a test run last week and my final word is that they are out-of-sight."

VILLAGE VOICE

"Earth shoes are the wheat germ of the footwear field. Some spokesmen reason that since shoes are the only item we wear that could hurt us, we should wear what's right for our feet and build a wardrobe from there. Anne Kalso designed the first Earth shoe in Copenhagen 17 years ago and her patented concept has quietly spread like a religious movement."

GENTLEMEN'S QUARTERLY

"... it is a whole new way of walking and one that takes some getting used to. But that is the way it so often is with things that are good for you. And Earth shoes are that."

HARPER'S BAZAAR

"... it's the same feeling as walking barefoot in sand."

GLAMOUR

"When Nancy and Peter Frangoulis were married in Brooklyn last June, the bride wore traditional white and a veil, the bridegroom wore a white suit. If they looked a little like ducks walking down the aisle, it was because they were both wearing their white Earth shoes."

N.Y. TIMES**Quotes From Some Letters We Recently Received:**

"... I've bought and thrown out quite a few pairs in my years. But after wearing Earth shoes almost everyday for four months I can honestly say that they are worth their weight in gold."

"... I've become addicted to your shoes. Can't live without them."

"... I really have to thank you or should I say Anne Kalso for making such a terrific shoe. I feel like I'm walking on air, it's great ... never felt so good in years."

"... I am a nurse and I think your shoes are the best thing that ever happened to feet."

"... I'm a teacher and spend all day on my feet. Since I started wearing these shoes, I can spend a whole working day in perfect comfort."

"... I first of all would like to tell you that the Earth shoe is the most comfortable shoe I've worn in years. After having been so pleased with them, I've decided to buy another pair."

"... I purchased a pair of your Earth sandals this summer and I haven't taken them off since they arrived! They're really fantastic!"

"... How does one describe a miracle? To a person who has always felt the pull of gravity after standing for any length of time it does seem like some kind of magic to have all discomfort disappear just from wearing Earth shoes."

"... Let me take this opportunity to tell you that I have had terrific results with the pair of Kalso shoes that I've had for about six months now. In other shoes I've worn, however comfortable, I'm normally exhausted after a half hour on my feet, these Kalso shoes are a blessing." _

ADVISORY SERVICES

The company has over 65 employees in its New York office who are trained in every aspect of the business, and are available for advice and guidance from the moment an individual decides to open an EARTH® shoe store.

Business Forms

A complete series of business forms has been developed which simplify the store owner's paper work. This enables the store owners to avoid the costly trial and error method. They are free to choose whichever they prefer for their new business.

Training Program

Before stores are opened, the company provides new store owners the opportunity to train in its company stores. They learn how to fit the EARTH® shoe and how to serve customers in the most pleasant and effective way. They observe and participate in the ordering of shoes, the keeping of inventory and all the day to day functions of store management. On opening day they are ready and confident to run their own business.

Store Opening Kit

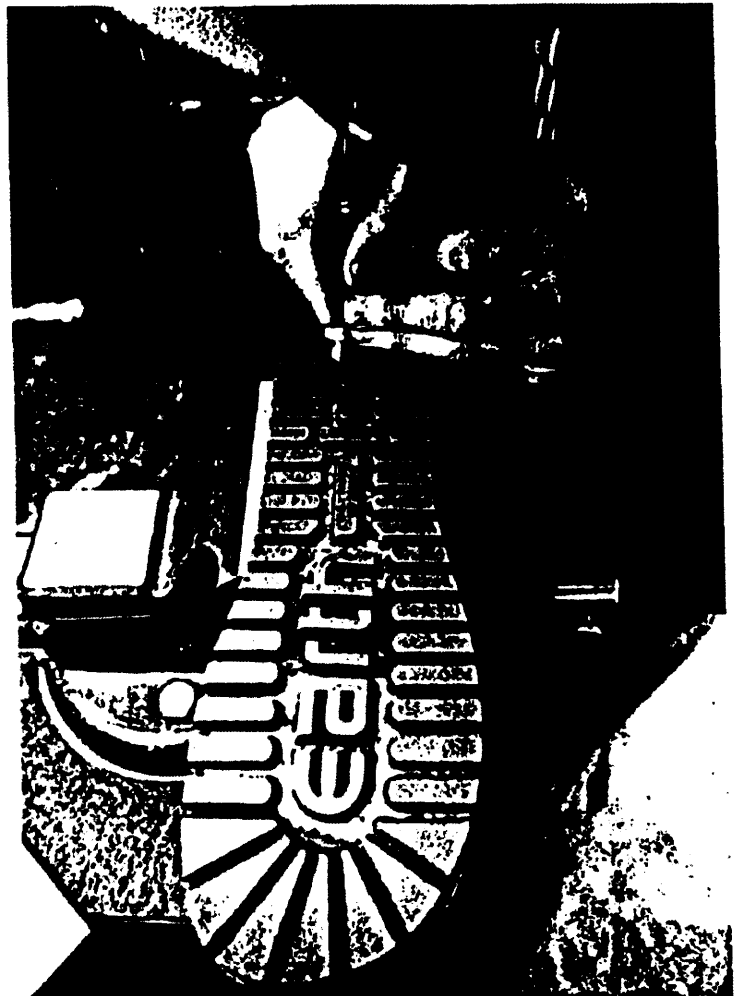
The company supplies the store owners with a complete package of display materials and public relations releases to enable them to decorate and publicize their opening with the greatest effectiveness.

Regional Sales Meetings

The company has periodic sales meetings where it presents its merchandising program. Seminars in the various aspects of EARTH® shoe retailing are held at these meetings. Talks are given on vital subjects and the store owners have the opportunity to participate in the forum. These meetings give the store owners a chance to meet their fellow retailers and share their experiences.

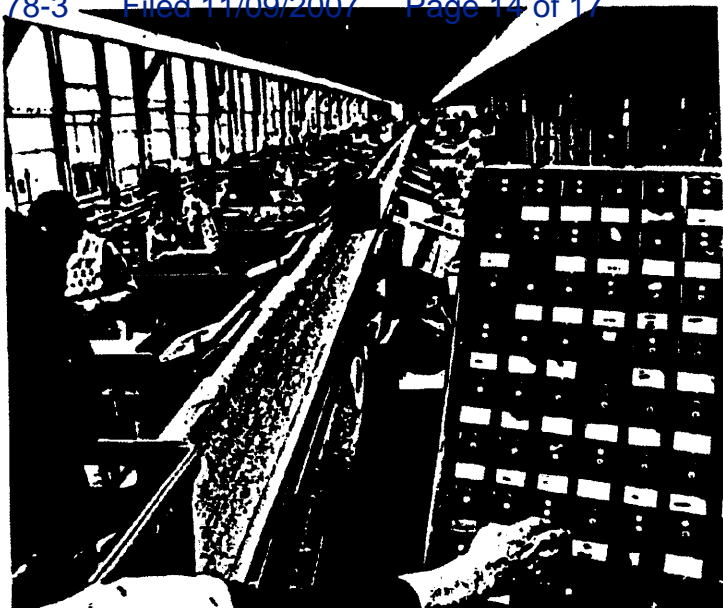
Display Materials

The company's graphics department produces display and publicity material in the form of counter cards, window displays, publicity releases, artwork of the various shoes, and reproductions of ads and articles which are made available to the store owners at a nominal cost.



Research And Development

The company is developing new products and is constantly seeking new materials and processes which will improve the EARTH® brand shoe.



MANUFACTURING FACILITY

The company owns a 100,000 square foot plant in Middleboro, Massachusetts. It is a typical turn-of-the-century New England shoe factory which has been refurbished with the latest equipment. It has instituted the latest methods of production and quality control. There are over 250 skilled craftsmen who put their pride of workmanship into every pair of EARTH® shoes. Production is augmented with a controlled amount of sub-contracting which gives the company greater flexibility in product mix and availability of supply. The sub-contractors are subject to the same stringent quality control as exercised over the company's own factory production.



RAYMOND JACOBS, President

Before founding the EARTH Shoe Company in 1970, Raymond Jacobs enjoyed a highly successful career as a free-lance photographer. Soon after establishing a studio, he became known as one of the top creative talents in New York and received many awards for his innovative work in the field of photography. He counted among his clients such major companies as IBM, U.S. Steel, Eastern Airlines and Metropolitan Life Insurance. His photographs are in the permanent collection of a number of museums including the Museum of Modern Art in New York. Mr. Jacobs' continuous investigation of new ideas coupled with his business acumen are channeled into the ongoing development and growth of a very unique product and company. The present success of the EARTH® shoe is a direct result of his skills and energy.



GUSTAVE HULKOWER, Executive Vice President

Over 25 years in the business world has given Mr. Hulkower a wealth of knowledge, experience, and insight. His background includes marketing and sales administration for both domestic and international corporations, and his past activities have taken him all over the world. Mr. Hulkower has been highly instrumental in the early planning and implementation of the growth of the EARTH® Shoe Company. Formulating business strategy, hiring of executives, and developing training programs are some of the major areas in which he is involved.



ELEANOR JACOBS, Vice President

Prior to her marriage, Eleanor Jacobs worked for a major advertising agency. During her tenure there, she worked on accounts such as The Ford Motor Company, Kraft, and Shell Oil. Her experiences in this environment provided her with valuable insights which were most important during the early stages of the development of the EARTH Shoe Company. Mrs. Jacobs' responsibilities include advertising and public relations. This function includes personal radio and television appearances and newspaper interviews. She has had remarkable success in favorably presenting the EARTH shoe directly to the public.



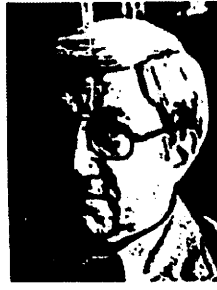
RICHARD LEVY, Administrative Vice President

Rick Levy, the youngest member of the executive staff, received his degree in Business Administration from the Babson Institute. He became manager of the Cambridge EARTH® shoe store in March, 1972. With the growth of the company, Mr. Levy's talents were recognized at an early stage and he was named Administrative Assistant to the Executive Vice President in February, 1973 and was appointed Administrative Vice President in August, 1973. The experience and training he received in all areas of the company has enabled him to contribute significantly to the growth of the company.



CHARLES CANNON, Director of Merchandising

Charles Cannon has more than 20 years of experience in the shoe industry. As a Vice President of a retail division of one of the largest shoe firms in the world, he was in charge of more than 200 shoe stores in the United States. He has been instrumental in the planning and merchandising of new styles and is directly responsible for the operation of company EARTH® shoe stores.



RICHARD BURNS, Director of Corporate Finance

Richard Burns brings to the company over 25 years of experience as a Certified Public Accountant with manufacturing firms and international public accounting firms. He is a member of the American Institution of C.P.A.'s, the New York State Association of C.P.A.'s, and the American Accounting Association. He is responsible for long range financial planning for the company and supervises the inner functions of the accounting division.



**CHRISTIAN DEFOULOUY,
Director of Foreign Operations**

Christian Defouloy was born in Paris. He received his Masters Degree in Business Administration in the United States. He is fluent in five languages and thoroughly versed in all aspects of international business. He has held management positions with a number of major international firms and has travelled and worked throughout Europe and Asia as well as in the United States. As Director of Foreign Operations, Mr. Defouloy is responsible for the development of all markets outside of the United States.



MILTON ISENBERG, Director of Manufacturing

Milton Isenberg received his degree in Economics from the Wharton School of Finance and Commerce. He has 30 years of shoe manufacturing experience including seven years as Vice President in charge of manufacturing for a major shoe company. He has been the past Director of the Superintendents and Foreman's Association of Footwear, and Chairman of the Management Consulting Committee of the New England Shoe and Leather Association.

In the preceding pages we have described the history and development of the EARTHS brand shoe and its metamorphosis from ugly duckling to trend-setter. We strongly believe that form follows function and while we recognize the need for style to meet the growing demand of our product, we also recognize that the intrinsic beauty of the EARTHS shoe lies in its simple unadorned line. The EARTH® shoe works because we have not tampered with its function. We are dedicated to simplicity and timelessness and are vigilant to preserve the integrity and identity of our company and its products in the eyes of the store owner and consumer.



© EARTH is the Reg. Trademark of Kalse Systemet, Inc. for its shoes and other fine products.

INQUIRIES

Please send inquiries concerning store ownerships to:

Director, New Store Openings.

Kalse Systemet, Inc.
251 Park Avenue South
New York, N.Y., U.S.A. 10010

Please direct other business inquiries to:

Gustave Hulkower, Executive Vice President

The policies and systems described in this booklet were in existence at the time of publication. The company reserves the right to change any policy at any time and without prior notice.

Printed in U.S.A.

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EXHIBIT 3

The secrets of the Earth® sole.

When the Earth* shoe was first invented, an uproar began. The heel was lower than the toe! For years people talked about it, wrote about it, stared at it, tried it, and finally came to love it.

And of course, many, many shoe companies tried to copy it.

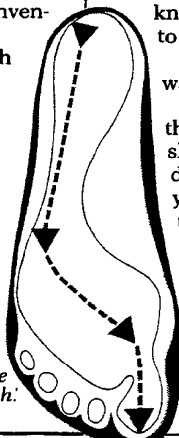
But all they knew about was our heel. Nobody knew about the rest of the Earth® shoe, which is every bit as remarkable as our heel.

Nobody knew our secrets. Yet, all along, those secrets have been doing incredible, positive things for you.

The better you walk the easier it is.

Inside every Earth brand shoe is a brilliant invention. The Earth sole. An invention that guides you, inch by inch, through a unique experience which we call 'pure walking.' A path of motion designed to balance, focus and concentrate your own natural forces so that you will walk, perhaps for the first time, with continuous, comfortable easy power.

The Earth shoe 'power path'.



The theory of 'pure walking.'

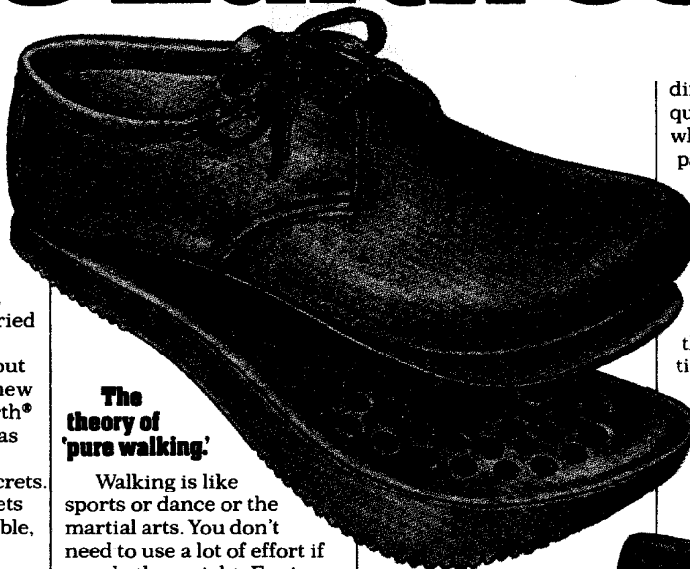
Walking is like sports or dance or the martial arts. You don't need to use a lot of effort if you do them right. For instance, you can hit a tennis ball perfectly using practically no force, if your form is right and you know which muscles to use.

The same is true of walking.

And that's what the Earth brand shoe is designed to do. To choreograph your walk, to concentrate your power, to focus your movement into an efficient, comfortable, easy, powerful way to walk.

The 'power path' of the Earth sole.

The Earth brand shoe is precisely calculated and constructed. It shifts your weight in a carefully plotted path, rolling from the lowered heel to the outside of your foot, across the ball of your foot, and ending with the big toe.



differences... can function quite differently. That is why the Earth® shoe is patented under the U.S.

patent number 3305947.

There is only one Earth® shoe. And although it comes in many, many styles from sandals to oxfords to hiking boots to dress shoes to sports shoes, they are all the most revolutionary, sophisticated and comfortable shoe ever designed.

The EARTH brand shoe comes in styles for men and women. From \$23.50 to \$49.50. Prices slightly higher in the West.

This 'power path' was designed by Anne Kalsø after years of study and experimentation.

When you walk in the Earth® shoe, you will feel and understand why this path of motion is so special, so powerful, so effective.

Only the Earth shoe has the Earth sole.

Our secrets work too perfectly, too carefully, too powerfully to be tampered with. After all, balancing our shoe is a delicate and intricate process. And the difference between easy, smooth, powerful walking and difficult walking could be only a fraction of an inch.

So we should warn you against imitations. Not only is the Earth brand shoe the original negative heel shoe, but it took years to develop and perfect. And the slightest change... a copy with what seems to be small



*EARTH is the registered trademark of Kalsø Systemet, Inc. for its negative heel shoes and other products.
© 1975. Kalsø Systemet, Inc.



Anne Kalsø.
Inventor of the EARTH negative heel shoe.



You can only buy the Earth® shoe at Earth Shoe Stores. For the location nearest you, call toll free 800-327-8912. In Florida 800-432-5024. Earth shoes are also sold in Montreal, Toronto, Copenhagen, and Munich.

Why everybody's pretending they're us.



The shoes that look like, seem like, but don't work like the Earth shoe.

Today, a lot of people are trying to imitate our shoe. Some even use names that sound like ours, and have ads that look like ours!

It seems like everybody's trying to be us. But what they don't understand is this. Merely lowering the heel of a shoe isn't enough. And imitating the outside of our shoe isn't enough. Just because a shoe looks like the Earth shoe doesn't mean it works like the Earth shoe.

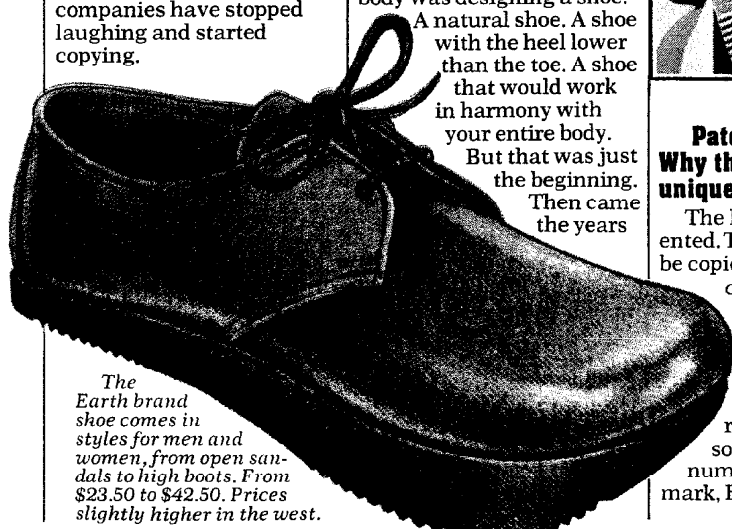
These are not Earth shoes. Just because they look like Earth shoes doesn't mean they are Earth brand shoes.

There was a time when the EARTH* negative heel shoe was the only shoe in the world with the heel lower than the toe.

In those days the other people who made shoes just laughed at us.

But things have changed.

And now that you love our Earth brand shoes, now that you're standing in line to get them, the shoe companies have stopped laughing and started copying.



The Earth brand shoe comes in styles for men and women, from open sandals to high boots. From \$23.50 to \$42.50. Prices slightly higher in the west.



of research and hard work to get every detail just right. To perfect the arch. To make the toes wide, comfortable and functional. To balance the shoe. To mold the sole in a special way so that it would allow you to walk in a natural rolling motion. Gently and easily even on the hard jarring cement of our cities.

To get an idea of how the Earth shoe works, stand barefoot with your toes up on a book. Feel what begins to happen.*

It took many years to perfect the Earth brand shoe. And those years are crucial. They make our shoe different from all its imitators.

How the Earth® Shoe was invented.

It started years ago when Anne Kalsø had the original idea for the negative heel shoe.

She saw footprints in the sand, and realized that with every footprint the body was designing a shoe. A natural shoe. A shoe with the heel lower than the toe. A shoe that would work in harmony with your entire body.

But that was just the beginning. Then came the years



Patent #3305947. Why the Earth® shoe is unique.

The Earth shoe is patented. That means it can't be copied without being changed.

And if it's changed it just isn't the Earth shoe.

So to be sure you're getting the real thing, look on the sole for our patent number and our trademark, Earth. If they're not

there, it's not the Earth brand shoe.

Sold only at Earth® shoe stores.

And there's one more thing that makes our shoes so special. Our stores.

Earth shoes are sold only at Earth shoe stores. Stores that sell no other shoe but ours, and are devoted entirely to the Earth shoe concept.

How our shoes fit you is very important to us. There's a special technique to fitting them. Our people are trained to fit you properly and we wouldn't trust anyone else to do it.

Find out for yourself.

To really appreciate Earth shoes you must try them.

When you do you'll see, perhaps for the first time in your life, what it's like to walk more gracefully, naturally and comfortably.



**EARTH is the registered trademark of Kalsø Systemet, Inc. for its negative heel shoes and other products.*

©1975. Kalsø Systemet, Inc.



Anne Kalsø.

Inventor of the EARTH negative heel shoe.

You can only buy Earth® shoes at Earth Shoe Stores

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

<p>MEYNARD DESIGNS, INC. AND EARTH, INC.</p> <p>Plaintiffs and Counterclaim-Defendants,</p> <p>v.</p> <p>EARTH PRODUCTS INC.</p> <p>Defendant and Counterclaim-Plaintiff.</p>	<p>Civil No. 1:05-CV-11781 NMG</p> <p>Judge Nathaniel M. Gorton</p>
<p>EARTH PRODUCTS INC.</p> <p>Third-Party Plaintiff and Counterclaim-Defendant,</p> <p>v.</p> <p>PLANET, INC.</p> <p>Third-Party Defendant and Counterclaim-Plaintiff.</p>	<p><u>CONTAINS CONFIDENTIAL INFORMATION SUBJECT TO A PROTECTIVE ORDER</u></p> <p>FILED UNDER SEAL WITH THE COURT IN ACCORDANCE WITH THE ASSENTED-TO MOTION TO FILE UNDER SEAL FILED ON OCTOBER 31, 2007 (DOCKET #67) and PER ORDER DATED NOVEMBER 8, 2007</p>

EXHIBIT 4

FILED UNDER SEAL

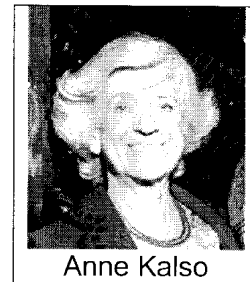
EXHIBIT 5



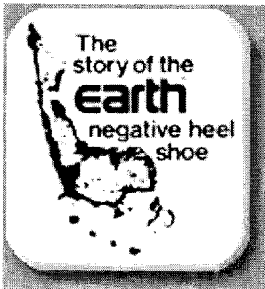
Yoga Origins – The Anne Kalso Story

While in pursuit of her life-long interest in Yoga, Anne Kalso's studies took her to the great Hindu school of Yesudian in Zurich and later to the Yoga monastery in Santos, Brazil. In the course of her studies and experiments, she observed that by flexing the foot, or by lowering the heel one could achieve a feeling similar to that attained in the lotus or Buddha position of Yoga. In 1957, this awareness inspired her to develop (with the aid of a Portuguese shoe maker) a primitive version of a sandal with the heel lower than the toes.

Subsequently, she began to observe the noble carriage of the Indians with their foot imprints in the sand, and it was confirmed to her that when man walks in soft earth the weight of his body is sunk low in to the heels! Returning to Denmark, she began experimenting further with this principle. For ten years she developed and refined her designs. She tested the new models herself on walking trips of five hundred miles and more. Every nuance of their design and structure grew out of her intense concern and care. "It took numerous years of hard work before I reached the final form of my shoe which takes into consideration all the natural demands of the foot and body. Now I know that I have created something. It is no longer an idea in my mind, but a thoroughly tested and proven fact."

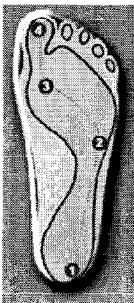


Anne Kalso



There is little of our poisoned environment that we as individuals can control, but we do what we can to overcome the negative influences on our lives. We seek harmony of the body and spirit and use what is available...meditation, nutrition, exercise, comfortable clothing and restful surroundings. We strive for a healthy natural lifestyle.

Man has built a world of concrete and steel that is incompatible with his anatomy. We need a shoe that recreates underfoot the natural terrain that now lies buried beneath the concrete of our cities. To meet this need, a Yoga teacher from Copenhagen by the name of Anne Kalso, invented a sole design called the "minus heel". In the form of a healthy footprint in soft earth, it provides unprecedented comfort; one immediately experiences a new way of standing and walking.



This unique construction with its heel lower than its toe, mirrors the effects of walking barefoot in the sand. This alignment of your body helps to develop a natural, graceful stride.

1. The first point of contact is the heel.
2. Weight shifts to the outside of the foot.
3. Weight is distributed evenly at the metatarsal area of the ball.
4. Weight moves to the large toe from which point we spring into our next



EXHIBIT 6

Feb. 28, 1967

A. S. J. KALSOY

3,305,947

FOOTWEAR WITH HEAVY SOLE PARTS

Filed Oct. 4, 1963

2 Sheets-Sheet 1

Fig-1

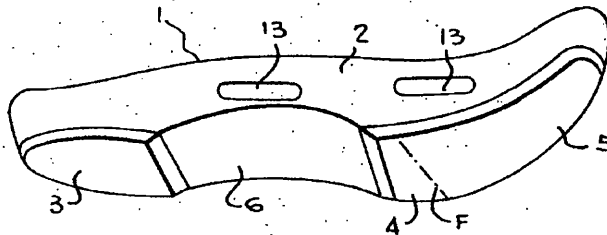


Fig-2

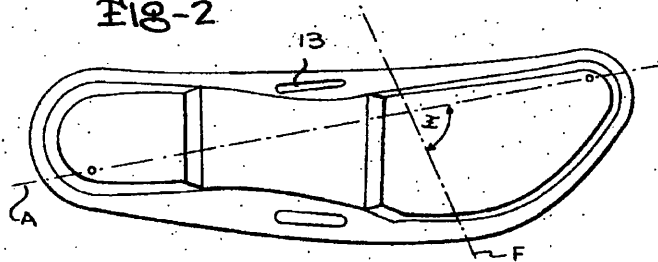
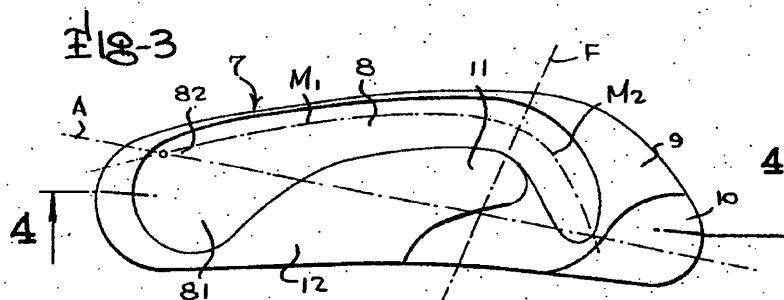


Fig-3



INVENTOR

ANNE S. J. KALSOY

BY *Mason, Fenwick & Lawrence*
ATTORNEYS

Feb. 28, 1967

A. S. J. KALSOY

3,305,947

FOOTWEAR WITH HEAVY SOLE PARTS

Filed Oct. 4, 1963

2 Sheets-Sheet 2

Fig-4

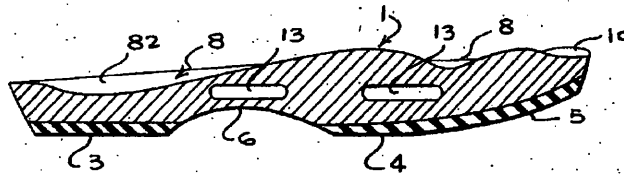
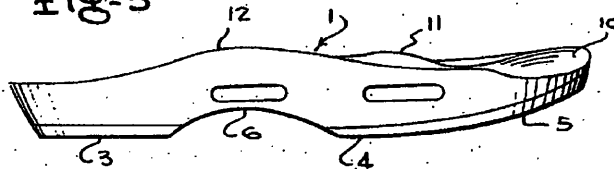


Fig-5



INVENTOR

ANNE S. J. KALSOY

BY *Mason, Fenwick & Lawrence*
ATTORNEYS

United States Patent Office

3,305,947

Patented Feb. 28, 1967

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3,305,947

FOOTWEAR WITH HEAVY SOLE PARTS

Anne Sofie Julie Kalsoy, Bredgade 12,
Copenhagen, Denmark

Filed Oct. 4, 1963, Ser. No. 314,034

Claims priority, application Switzerland, Oct. 6, 1962,
11,759/62

5 Claims. (Cl. 36-2.5)

The present invention relates to footwear of the kind having heavy sole parts formed in such manner that when the user is walking the footwear is rocking or rolling on a curved surface located on the underside of the sole and beneath the ball of the foot.

The object of the invention is to give the footwear such form that the foot is tired less on walking and standing than is the case of the many existing forms of footwear, regardless whether they be boots, shoes, sandals, wooden shoes or other footwear.

There are many known shoes and sandals which are adapted to the different requirements for the support of the foot. This is usually accomplished by forming the supporting surface for the foot in suitable manner.

Such footwear, however, has the drawback that the heel is turned outwardly as the foot is treading on the sole, which involves an unfavourable movement of the leg and the knee. The known soles are often provided with a support for the whole arch of the foot, and the said support is also maintained when the muscles of the foot at the arch are tightened. The said supports, which consist in substantially raised sections on the upper side of the sole, certainly support the foot, but they prevent the muscles from working freely and consequently render necessary strengthening of the musculature impossible.

The invention is concerned with footwear which is better adapted to normal walking of a human person and which allows the footwear to be worn the whole day, just as it prevents the toe of the treading foot from swinging outwards in relation to the heel. Since the big toe is the most powerful of the toes it is advantageous to transfer the main weight of the body on this toe when taking off from the floor. The footwear is formed in such manner that the way of treading performed by primitive people moving on soft ground can be adopted by people who have always to walk on a hard, flat surface. By means of the footwear according to the invention a normal movement of the leg is supported and abnormal walking as frequently seen with children is eliminated.

Much pain in the muscles of the back and the legs may be ascribed to an abnormal movement of the leg during walking and a normal tread of the foot on its supporting surface. By a health-improving movement of the leg and a suitable tread it will be possible to relieve much pain through the use of footwear according to the invention, and the muscles of foot and leg will be strengthened.

The footwear according to the invention is characterised in that the aforesaid curved surface extends from a rectilinear generatrix which emanates from a point lying beneath the rear part of the location of the treading surface of the little toe and is directed obliquely rearwards, forming an angle of about 70°-90° with a connecting line which extends from the point of the extreme part of the big toe and to the point of the rear part of the outer side of the heel, the said surface curving upwards in the direction towards the location of the big toe and the said angle being measured from the location of the big toe and towards the outer side of the foot.

By this form of footwear the foot is, during walking, caused to shift the pressure on the ball of the foot onto the treading surface of the big toe instead of on the treading surface of the remaining four toes; this gives a safer and less tiring walk because the big toe owing to

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its strength is comfortable to take off with when walking.

The said effect may according to the invention be improved thereby so that the said curved surface is formed as a cylindrical surface, preferably a right circular cylindrical surface embodying the aforesaid generatrix.

The strength of the big toe may even be further utilised in a take-off if by another embodiment of the foot-wear according to the invention the curved surface is designed as a developable, for example as a conical surface, which, compared with a cylindrical surface, will curve more upwardly in the side of the big toe than in the side of the little toe.

A very long tread and consequently a very healthy walking are obtained if in the further embodiment of the footwear according to the invention the tangential plane of the curved surface in the said generatrix is lying closer to the supporting surface of the user's foot than to the generatrix.

To ensure a suitable and uniform transfer of the pressure of the foot from the heel to the ball of the foot before the pressure is re-transferred uniformly therefrom to the treading surface of the big toe, the footwear according to the invention may have a slight depression formed in the supporting surface for the foot and having its outer heel section lying somewhat deeper than the inner heel section and curving slightly from the heel section along the outer side of the sole in the direction towards the treading surface of the little toe, from which it rises slightly in forward direction, whereas in the area as the ball of the foot it is curving substantially more inwardly and rising somewhat inwardly in the said area, whereas the surface supporting the four small toes is rising somewhat more in relation to the depression in addition to which the big toe has a treading surface which declines strongly in the direction of the toe, a raised section provided beneath the arch of the foot rising from the surrounding depression with a gentle transition, the said raised section continuing rearwardly and towards the inner side of the footwear in a raised section the surface of which supports the arch beneath about the rearmost one-third of same and rises strongly from the heel section, all of it in such manner that the foot, when treading on the heel, is slightly supported at the arch and is caused to rest with its outer part in the depression, whereby it heels slightly outwards and subsequently at the transfer of the weight forwardly treads along a slightly curved line in the direction towards the little toe and subsequently, when the rear part of the sole is lifted, treads along a continuous, more curved arch in the direction towards the big toe, whereby the foot receives an inward inclination simultaneously with the sole treading on the curved surface beneath the big toe, whereby the foot is raised more at its rear outer part and the knee cannot move outwards, so that the big toe will be carrying the main weight of the body.

Other details and modifications of the footwear according to the invention will be described in the following in connection with one embodiment of the footwear.

In the drawings:

FIGURE 1 is a perspective view of a sole for the left foot, viewed obliquely from below,

FIGURE 2 shows a sole for the left foot, viewed from below,

FIGURE 3 shows a sole with markings for the supporting surface for a left foot,

FIGURE 4 is a cross-sectional view taken along line 4-4 in FIGURE 3, and

FIGURE 5 is an elevational view of the side illustrated in FIGURE 1.

The disclosed footwear 1 consists substantially of a sole 2. Such parts of the underside of the sole as contact the support have a heel section 3 and a front sec-

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tion 4. The parts 3 and 4 may be located in the same plane, but this is not necessary and they need not even be planular plane any of them. The front section 4 passes at a line P into a surface 5 which rises in the direction of the extreme end of the big toe and the line F forms an angle α of about 70° - 90° with a line A which connects the outer heel section with the extreme end of the big toe as indicated in FIGURES 2 and 3, the said angle being measured from the point of the toe towards the outer side of the footwear. The line F begins at the outer side of the footwear at a place lying beneath the rear end of the treading surface of the little toe.

On the surface 5 the tread of the sole on the support proceeds in such a manner that the rearmost outer part of the sole is raised more than the inner part of same. As a result, the knee of the user of the footwear will not bend outwards when he is walking, which would involve an injurious movement of the muscles of leg and body.

The underside of the sole is provided with a recess 6 which serves to increase the elasticity of the sole in the event that it consists of an elastic material and furthermore it reduces the weight of the sole.

On its upper side the sole has a supporting surface 7 in which there is a slight depression 8. The rear part of the said depression is adapted to suit the form of the heel and the inner section 81 of the depression is slightly less deep than its outer section 82. The depression 8 extends forwardly in a slight curve, indicated by a line M1 in FIGURE 3 in the direction of the treading surface of the little toe, and the depression rises slightly forwardly from the outer heel section 82, forming an angle of 5° - 7° , after which the depression continues as an increased curvature, indicated by the line M2 in FIGURE 3, towards the treading surface of the big toe, after which the depression is fading out.

The surface 9, on which the four smaller toes are resting rises in forward direction from the slight depression 8, forming an angle of about 1° - 30° .

The big toe is supported by a surface 10 which is inclining about 8° - 10° downwards in the direction towards the point of the toe.

Behind the treading surfaces of the smaller toes is provided a slightly raised section 11 located beneath the ball of the foot. The said raised section 11 rises to about 1-2 mm. above the deepest places of the surrounding depression. All transitions between the depression and the raised section are uniform and gentle so as to provide a supporting surface that is very gentle beneath the front part of the foot and inclines slightly inwards, whereas as mentioned heel sections are inclining slightly outwards. At its rear end the raised section 11 passes gently into a more pronounced raised section 12 for the arch of the foot. The said raised section 12 has a surface which supports the arch of the foot, though only about the rearmost one-third of same. The raised section 12 rises comparatively abruptly from the inner heel section 81 to support the desired outwardly directed inclination of the heel section. The raised section 12 is only supporting the tarsus, not the arch of the foot.

The sole is attached to the foot in suitable manner and may, for example, be made of wood and be provided with wearing surfaces of rubber or plastic, but it may also as a whole be made of an elastic material such as cork, rubber, leather or an elastic plastic material.

By the aforesaid design of the supporting surface for the foot and the underside of the sole the following movement of the foot is produced in walking: The user puts the footwear with the heel against the ground so that both of the parts 3 and 4 are resting against same, but the main weight of the body is transferred through the heel. This will cause the foot and the leg to incline slightly outwards whereby the heel and the extreme part of the foot will arrange themselves in the depression

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8. The outer part of the foot is located in the front area, slightly raised. The rear part of the arch of the foot is supported by the raised section 12. The muscles in the arch may thereby move freely, which is useful for strengthening these muscles.

By the said design of the supporting surface for the foot the foot is pressed into the depression 8, on which the tread of the outer part proceeds until the weight of the body rests on the arch of the foot, after which the tread proceeds from the ball of the foot in the direction towards the big toe. Simultaneously, the sole rocks or rolls on the curved surface 5 as soon as the weight has been transferred to the ball of the foot, and owing to the rolling of the sole on the surface 5 of the support the foot is forced to lift itself more on the outer side rearwardly so that the leg is consequently guided in such manner that the knee is moved straightly in forward direction. Anyway the knee is prevented from moving outwardly. The big toe will thus gradually be subjected to the main weight of the entire body, but owing to its more powerful nature the said toe is also capable of receiving this weight without being tired, and the big toe also transfers the desired main force at the take-off of the foot from the support.

Tests and experiments have clearly shown that by this movement the muscles of the body are acted upon in advantageous manner and that there is no tendency to deformity of the toes such as hammertoes. Any tendency to deformation of feet or muscles will, as a rule, rapidly cease so that the movement described permits a permanent use of the footwear according to the invention.

The sole 2 may be attached to the foot by means of straps so that the foot may "breathe" freely. For this purpose the sole has at least one through-going opening 13 through which a strap may be passed.

What I claim and desire to secure by Letters Patent is:

1. A footwear having a sole structure comprising a member having a bottom surface and a foot supporting top surface, said top surface having forwardly disposed little toe and big toe supporting surface portions, a rearwardly disposed heel supporting surface portion, and intermediately disposed ball and arch supporting surface portions, said bottom surface having an upwardly and forwardly curved surface portion extending toward the big toe supporting portion of said member, said curved surface portion emanating from a rectilinear line lying at an angle in the range of 70° to 90° to a rectilinear line intersecting the forwardmost point of the big toe supporting portion of said member and a rear point of the heel supporting portion of said member, and passing through a point on the little toe supporting portion of said member, the radius of curvature of said curved surface portion increasing in a direction from the big toe supporting portion to the little toe supporting portion of said member to provide a substantially conically shaped curved surface portion, and the thickness of the ball supporting portion of said member being greater than the thickness of the heel supporting portion of said member.

2. A footwear having a sole structure comprising a member having a bottom surface and a foot supporting top surface, said top surface having forwardly disposed little toe and big toe supporting surface portions, a rearwardly disposed heel supporting surface portion, and intermediately disposed ball and arch supporting surface portions, said bottom surface having an upwardly and forwardly curved surface portion extending toward the big toe supporting portion of said member, said curved surface portion emanating from a rectilinear line lying at an angle in the range of 70° to 90° to a rectilinear line intersecting the forwardmost point of the big toe supporting portion of said member and a rear point of the heel supporting portion of said member, and passing through a point on the little toe supporting portion of said member, and said top surface having a shallow curved depression extending from the heel support por-

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5

tion, forwardly, outwardly of the arch supporting surface portion, and inwardly adjacent and rearwardly of the ball supporting surface portion, the rear portion of said depression having the outer portion thereof depressed deeper than the inner portion thereof and curved forwardly and upwardly toward the little toe supporting surface portion, wherefrom it slopes gradually upwardly and forwardly merging with said little toe supporting portion which continues to slope gradually upwardly and forwardly, the portion of said depression disposed adjacent said ball supporting surface portion sloping gradually upwardly, said big toe supporting surface portion sloping downwardly and forwardly, said arch supporting surface portion being elevated and merging gradually with said depression, the rearward end of said arch supporting surface portion which supports the rearmost one-third of the arch of the foot, being elevated slightly higher than the remaining part of said arch supporting surface portion and sloping downwardly and rearwardly to merge with said heel supporting surface portion whereby the foot when treading on the heel supporting surface portion is supported slightly by the arch supporting surface portion and at its outer side in said depression, causing the foot to heel slightly outwardly, when the weight on the foot is transferred forwardly the foot treads in said depression in a slightly curved line toward the little toe supporting surface portion, when the rear part of the member is lifted the foot continues to tread along said depression in a more curved line toward the big toe supporting surface portion, the foot receives an inward in-

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clination simultaneously when said member treads on said curved bottom surface portion, causing the rear end of the foot to be lifted, preventing the knee of the user to move outwardly and causing the big toe of the user to carry the principal weight of the user.

3. A footwear having a sole structure according to claim 2, wherein said depression slopes upwardly from said heel supporting portion toward said little toe supporting portion at an angle in the range of 5° to 7°.

4. A footwear having a sole structure according to claim 3, wherein the supporting surface for the four small toes slopes upwardly and forwardly at an angle in the range of 1° to 3°.

5. A footwear having a sole structure according to claim 4, wherein the big toe supporting surface slopes downwardly and forwardly at an angle in the range of 8° to 10°.

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30 PATRICK D. LAWSON, *Primary Examiner*.

EXHIBIT 7

Down At The Heels, But Fat In The Pocketbook

An elderly Dane invented them, U.S. college kids loved them, and the giant shoe companies eventually copied them. But it took a couple of New York City amateurs to see that the Earth shoe could be big business.

"EARTH" is the registered trademark of the original, down-at-the-heels, high-at-the-toe clodhopper developed by Anne Kalso in Denmark 19 years ago. The Earth shoe has become a symbol of the times. Rightly or wrongly, people associate it with comfort, the natural—as opposed to the stiff, the artificial, the disciplined.

Whatever it means, the Earth shoe has made an overnight success out of a smiling, shrewd New Yorker named Raymond Jacobs, 53, and his wife, Eleanor, 47. Jacobs, a furrier-turned-photographer-turned-shoemaker is the president and chairman of New York-based Kalso Systemet Inc., which has grown from sales of \$60,000 in one Manhattan store to sales of \$14 million nationally in 135 stores in just six years.

The original inventor, Anne Kalso, is a trim, multilingual, 71-year-old yoga enthusiast from Denmark. She claims to have designed her shoe in the form of a footprint in the sand. A wide, square-toed, casual shoe with a rubber composition sole, it is low in the back, high in the front and gives a rocker-like motion to the walk. The construction of the negative-heel supposedly recreates underfoot man's natural terrain now buried under cities of asphalt and steel. Kalso is a paid research consultant with the Jacobs company and receives a royalty on every shoe to boot.

The California College of Podiatric Medicine in San Francisco tested the shoe last year and concluded that it cannot be worn by everyone. At least 70% of the population would find the shoes beneficial, the study said, but those with flat feet, very high arches or shortened calf muscles could be made uncomfortable wearing them.

"We don't make any health claims concerning our shoe," Jacobs said, sit-

ting behind his cluttered desk on the 14th floor of his Park Avenue headquarters in Manhattan. A pale cloud of smoke from his cigar hung in the air partially obscuring the modern paintings and art objects that filled the room. It was a far cry from the basement office of his first shoe store on East 17th Street.

"Its function is comfort, not correction," chimed in Eleanor, mother of two and vice president in charge of public relations.

Copies Galore

Whatever it does for the wearer, the Earth shoe does great things for its sponsors. In 1970 Kalso Systemet Inc. had 100% of the "negative" shoe market. Now practically every major shoe company is selling a variation of the Earth shoe. "We knew we couldn't keep the big shoe companies from copying our shoe," said Jacobs, but his wife is not so philosophical. Just the mention of Thom McAn's Exersole, one of the most successful copies, makes her blood boil. "Not only did they copy our shoe but even our marketing techniques," Eleanor said indignantly.

Thom McAn's Exersole looks like the Earth shoe almost down to the last stitch. The Earth shoe is marketed in a burlap bag; so was the Exersole until early this year. McAn, a division of Melville Corp., has used a picture of the earth in its store displays and has introduced the Exersox, a carbon copy of Kalso's own Earth sock.

Imitation may be the sincerest form of flattery, but price-cutting is a different matter. The Jacobs charge \$35 to \$40 a pair for about 80% of their leather and rubber originals. Competitors' shoes go for \$25 or so. The originals also require for most people an irritating two-week break-in pe-

riod when calf muscles and arches adjust, sometimes painfully, to the radical tilt of the shoe. The less sharply inclined imitations require almost no adjustment time, but offer fewer benefits to the foot.

Copying the Earth shoe was the salvation of Duchess Footwear Corp. of South Berwick, Me. Duchess was close to insolvency—a casualty of persistently rising shoe imports. Thanks to a \$3-million government loan and the Rocky, a new shoe style modeled after the Earth shoe, Duchess is back in the black.

The Rocky is not a negative-heel shoe; it only looks like one. Others, like the Toronto-based Roots Natural Footwear shoe, do approximate the design of Kalso's original. Roots is a three-year-old operation run by two ex-Detroiters, Michael Budman and Don Green, and has an annual sales volume of \$15 million.

Can Kalso Systemet Inc. survive in the face of such high-powered competition? "Absolutely," said Jacobs. "The big companies are conditioned to change styles every few years. When they drop the negative heel for another style, we'll still be here making the same high-quality shoe with all the care and craftsmanship that is lacking in the imitations."

Jacobs opened his first store on Apr. 1, 1970, Earth Day. "That's how I came up with the name Earth for my shoes," said Jacobs, chuckling. The Jacobs stumbled into the shoe business, thanks to Eleanor's aching feet. She purchased a pair of Kalso's shoes in Copenhagen, hoping to find help in pounding the tourist trails of Europe. She loved the shoes.

"It was pure impulse," Jacobs said, that brought him back to Copenhagen and his first interview with the inventor. "I knew nothing about selling

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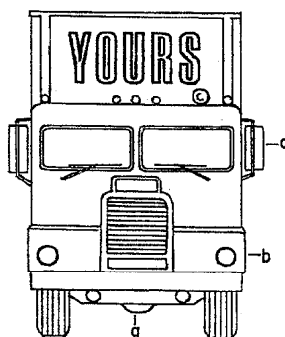
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individual

(in'di.vij'ōo.al) *n.* 1. Characteristics of a single person or thing. 2. Pertaining to the methods of your local Nationalease Affiliate in serving customers according to the circumstances of each situation, etc. 3. Seldom found in policy-bound giant leasing companies.



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shoes or marketing." Jacobs had worked in his father's fur business until he gave it up at age 30 for the camera and darkroom as a free-lance photographer and film producer.

He returned to New York and within a couple of months scraped together \$30,000 and borrowed a matching sum from a friend. Where Kalso's customers were middle-aged Danes with foot problems, Jacobs saw a different market in the anti-pollution, back-to-nature, counterculture student of the Seventies.

He took special care in designing his first New York store. He wanted a casual, comfortable feeling—antiques, wood paneling, natural colors, plants. Without money for advertising, Jacobs depended on word of mouth through the university grapevine to attract new customers.

Within a year of opening, Jacobs was approached by some enterprising students asking permission to open their own stores. "Those early store owners were mostly under-30 students who had purchased the shoes, liked them and wanted to sell them in their hometown or school," Jacobs claimed. More recently the college student-entrepreneur has been joined by the established merchant who sees a ready market for the shoe. New stores are now opening at the rate of about 30 per year.

Expanding Room

Initially, Jacobs got all his shoes from Denmark. By the end of 1972 demand was so great that he was forced to think about making his own shoes. Jacobs purchased an abandoned shoe factory in Middleboro, Mass. for \$65,000. He then negotiated a \$165,000 loan from the Massachusetts Business Development Corp., a consortium of banks working to reduce unemployment in the state. Middleboro town fathers came up with a special tax program to give the fledgling factory financial breathing room.

"It was in 1974 that we first decided to advertise nationally," Jacobs said. "We spent around \$163,000 on our first campaign." The company's campaign coincided with two stories on its product by national publications. "All hell broke loose," Jacobs said. A new ad was released begging customers to be patient. It was at this juncture that other shoe companies leaped into the breach.

Whether the Earth shoe fades or persists, whether its benefits are in the instep or in the mind, Ray and Eleanor Jacobs have proved once again that there remains plenty of room for individual entrepreneurs in this country. And they have a multi-million-dollar net worth to prove it. ■

EXHIBIT 8



October 22, 2001

Dear Retailer:

Please let me take just a moment out of your incredibly busy schedule to introduce my brand and explain why I strongly believe a partnership between our companies could be very beneficial.

Our company is called Earth® and for fall of 2001 we have delivered to the marketplace an evolution of the 1970's Earth shoe. It was designed by a yoga instructor in the 60's and brought to the US in 1970. The product became an icon of the times. In fact, became so popular that Earth shoe was copied by many vendors and became a generic name for many similar looking items. We have incorporated understandable fashion, our patented Negative Heel™ technology and other unique comfort features and benefits into our products to meet the needs of today's retailer and consumer.

In today's world everyone is searching for a way of "feeling good". Consumers have begun to search for products and services that are more meaningful to their daily lives or association with thoughts and feelings that make them smile. Our product is being described as one of those brands. College students coming to the brand for the first time, as well as, those coming back to the brand love the way our product and heritage is making them feel. The equity that our brand holds is even stronger than we first thought. I have attached a couple of e-mails in this package that highlight some of the comments we receive on a daily basis. Our product stirs "feel good" emotions.

Our company philosophy is simple: We will strive to be the most "Retail Centric" brand in the industry. Everything we have done and continue to do is developed with retailers in mind. For example:

- Our staff consists of individuals who have all been in retail as part of their professional experience.
- Product that combines athletic inspired features and benefits with multiple insoles, soft fitted foot beds, a comfort sphere, latex outsoles and others providing comfort for the "Total Body".
- Training videos and backroom posters insuring your sales associates know what they are selling.
- Grass roots marketing efforts focused on driving consumers in your door today - not a year from now
- Margins that will make you money today and tomorrow.

Our distribution strategy is simple as well: We will sell the best, most prestigious independently owned retailers globally, and minimize our department store retailers to the two or three who will insure that the Earth brand will never be comprised and whose stores maintain high customer service standards.

The response to our product for fall has been very good. The response to the product we are showing for Spring 2002 has been overwhelming. (See attached photos) Given the information outlined above we have chosen your company as a possible strategic partner. As you look at all of the brands, new and old, your company will be asked to purchase please keep in mind three important factors:

- Is the brand unique enough to attract a new consumer and give them a reason to buy?
- Is the company aware of what you as a retailer goes through every day to survive and if so how are they helping you to be more profitable, not just sell additional footwear?
- How many places within your trading radius can this brand be purchased by a consumer?

I have attached a list of sales associates who will make a friendly call to you over the next couple of weeks. If you choose to have a rep visit you, we are positive you will like what you see and hear. If you choose otherwise we wish you all the best. In any case we would like to wish you a great 2002 season and may you and your families be safe and above all happy.

Sincerely,

A handwritten signature in black ink, appearing to read "Charles F. Liberge".
Charles F. Liberge
Executive Vice President

EXHIBIT 9

Footwear: a glossary of terms

compiled by Cameron Kippen

To further the understanding of shoes and footwear technology the follow glossary attempts to define the more commonly used terminology. The Glossary serves as a supplement for readers interested in the history of footwear. These pages are continually under construction and we hope you will contribute to this process. Please email any alterations or corrections you feel are necessary.

ACHILLES TENDON PAD

A lining inside the heel area of the upper designed to cushion and protect the Achilles tendon.

ADDITION METHOD

A method of fitting up the custom made last, if the foot is broader, the instep or big toe higher, or the heel thicker than average. The shoe maker corrects the last by attaching various pieces of leather to it. Though shoes can be made from the modified last, quality shoemakers produce a new copy based on the modified original.

ADJUSTABLE WIDTH LACING

A system of webbing loops or rings to secure the lacing of the upper, used in place of eyelets. Can also be called "speed" lacing.

AGLET

The plastic tip at the end of a shoelace.

ALBERT

A man's slipper with a straight top line to the quarters and the vamp extended upwards to form a tongue resting on the instep.

ALUM-TANNING

The method of treating insole materials which sterilises the inner portion of the shoe.

APRON FRONT

A shoe front describing a shield shaped apron on top, either underlaying or overlaying the remainder of the vamp. The style derives from a moccasin where it sometimes forms the top part of the upper after the pleats have been removed.

ATH-LEISURE WARE

The Ath-leisure wear movement or athletic shoes was spearheaded by the seventies and eighties craze for keep fit. By the 1970's informality became intertwined with the cult of health which had a marked effect on footwear. Ath-Leisure Ware market is primarily targeted at young markets.

ASSYRIAN BOOT

The Assyrian boot was broad and rounded, the front was cut away with a loose leather flap covering the instep and leg. The lacing was loose so the foot was not constricted. Pointed boots were not introduced until the time of the Hittites (2000-1200 BC)

AWL

An implement used to make holes in the welt for stitches, and a short awl makes holes for the wooden pegs in the rand.

externally visible. These are strong casual shoes. There are two common variants, in the first the welt runs from one edge of the heel to the other, in the second the welt embraces the heel. Only a strong smooth leather is suitable for double-stitched shoes or one with a rough surface. Combinations of different colours are also frequently found. Boots and ankle booties are sometimes made, double stitched.

DUCK'S BILL SHOES

Broad footwear worn by men in the 15th and 16th century. Alternative names for the very broad footwear were: Bear's Paw, Scarpine or Solerets

EARED SHOES

Following on from the long toed shoes of the fifteenth and sixteenth centuries, the style for broad footwear meant shoes became very broad and wide (c 1535-1555). The corners of the toes were extended sideways resembling ears.

EARTH SHOES

The earth shoe differs from orthodox shoes with respect to the toe box, the arch and the heel which is lower than the sole of the shoe. The style enjoyed a brief period of popularity in the mid 1970s.

EMBATES

Sandals worn specifically by comic and tragic actors in ancient Greece.

EQUESTRISS

A style of caligae worn by horsemen.

ESCAFFIGNIN These shoes replaced the broad, bear's paw shoes and were a slimmer, low cut, shoe with a wide and puffed toe box. (circa 16th century)

ESCARION

Escarion were lightweight shoes worn in the 16th century and made from heavy silk. The uppers were usually slashed on top.

ESCHAPINS Narrower than the Bear's Paw, these heeless shoes covered the foot and were slashed on the uppers (circa 16th century)

EXERCISE SANDALS Introduced by Scholl's the sandals were a simple sole with leather forefoot attachment. Shaped like the sole of the foot the shoe combined the properties of a simple sandal with a clog

EYELETS Holes (2-3mm) across at intervals of 1-1.5 cm through which laces are threaded. Classic Gentlemen's shoes have five pairs of eyelets.

FERRAGAMO

Salvatore Ferragamo invented the wedge heel and also introduced a metal arch support which meant heeled shoes no longer required toe caps.

FILLING Substance used to fill the gap in a welt-stitched shoe, with a shock-absorbing and stabilising effect on the sole when walking.

FINE COPYING Can refer to a last making method in which the measurements of the last form are precisely transferred to the new last by machine; alternatively a term to describe a last making method in which a last that has been corrected by the addition method functions as a last form.

FINISHING Once the shoe has been constructed the upper goes through a process of washing, creaming and

EXHIBIT 10

ROOTS DIRECT |

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 - > When did Roots open its first store?
 - > I'm doing a project for school about entrepreneurial businesses. Where can I find more information about how Roots started up?
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 - > Where can I find more Roots products?
 - > Why are you only able to ship to Canadian addresses?
 - > Where are the products designed?
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 - > Can you send me a catalogue?
 - > Where is the closest store to me?
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 - > I would like to make a bulk order or a custom order who can I contact for more information?
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 - > Can I return my Roots Direct purchase to a Roots store? Or any other retailer?
 - > Can I return my Roots product to Roots Direct that I purchased at a Roots store or any other retailer?
 - > Does Roots produce a Catalogue and how may I order one?
- Answer: Currently we do not produce a merchandise catalogue for ordering. Our Negative Heel Shoes ("Earth Shoes") are still made to order and can be special ordered from us directly by contacting our Customer Care department at 1-888 30-ROOTS.
- > How many stores does Roots have?
 - > I live in the United States where can I make a Roots purchase online?

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EXHIBIT 11



80s 90s

Music
Movies
Television
World Events
Fads/Fashion

— **Guestbook Messageboard** —

Compare great holiday gifts.

Gift Shopping

Gift Search

— **Search Links Quizzes Games** —

Clothes of the 70s



9

80s Clothes 90s Clothes

Observe the fundamental weakness
of the criminal mind. They will
believe in no one nor anything.
From Bedknobs and Broomsticks

What new clothes were introduced during the 70s that you can think of? This is a list of all the clothing styles that were popular during the seventies.

- **Angel Sleeved Blouses**
 Loose cut, oversized blouses with "bell bottom" sleeves. All Cotton. I bought my sister one during the height of disco and she never took it off, except to tan.
- **Banana Jeans**
 Instead of the buckle in the front, it was in the back, right below the small of the back & they were very high waisted, usually denim.
- **Bead Chokers**
 70's version was a bit cheapo looking compared to the chokers now, mostly because they were hand made. Small beads in a elastic cord and knotted so it became a tight necklace around the neck. Circa 1974-75
- **Bell Bottoms**
 Denim tight at the top and baggy at the bottom
- **Blue Jean Purses**
 Old blue jeans made into a purse. Cut off legs, sew up bottom use the extra leg material to make the strap, attach a button to close the purse embroider flower designs and add studs for decoration.
- **Cheese cloth**
 Shirts, dresses, skirts anything was made from cheese cloth, it was crinkly so you didn't need to iron it. It used to shrink sometimes just on the first wash sometimes with every wash. If it was cream coloured you had to soak it in cold tea after washing to keep its colour.
- **Clip-on Suspenders**
 Wide, at least two inch suspenders, generally with rainbows or anything way colorful. Silver cheap metal clips. Found first pair in 1974. In Alabama.
- **Clogs**
 Sling-back shoes with a thick heel and sole, made of wood with leather or suede front straps and a metal buckle.

- **Denim Jeans Converted Into Skirts**

Ripped out the inseam and stitched floral print material in the middle to make it a skirt

- **Dingo Boots**

About 1977 these were the craze, usually worn with *Gaucho pants(these were just below the knee and usually corduroy) Most of the boots had rubber soles.

- **Dittos Jeans**

These were the first must-have label jeans. They came in a large array of colors and styles with names like "Hi-rise". They were so popular (at least in southern California). After this, many other "label" jeans/clothing became popular. I would LOVE to get my hands on a pair of these. I keep trying e-bay and other sites.

- **Down jackets & Vests**

Big, puffy jacket. Made you look huge! Colors I remember were bright green, orange and blue. Nerd city, but tres cool back then! Mine was a cheap version!

- **Earth Shoes**

Ergonomically correct shoes in which the heels were lower than the front.

- **English Flag Shirts**

Shirt made with the English flag, Cool with the punk rocker crowd, worn only a short period of time but still part fo the 70s.

- **Flame Bleached Jeans**

We used to take these bell bottoms and a plant sprayer with bleach in it and make flames go up the sides from the bell bottoms. They were really cool.

- **GASS Brown Shoes**

These were brown or different shades of brown leather shoes sold at Kinney shoe store, and had the GASS logo on the bottom (Great American Shoe Store), and we actually sat there and looked at people's bottoms of shoes to see if they were GASS or not!

- **Gabardine Pants**

Tight, usually corderoy pants that had a belt buckle in the front. Think John Travolta in Saturday Night Fever

- **Goucho Pants**

A coulotte type worn by high school girls that went below the knee, usually colorful, sort of a Mexican look. Usually worn with high leather boots that lace up. Early 70's look.

- **Granny Gowns**

These were long dresses worn mostly by pre-teen girls and most of them had a floral print design.

- **HASH Jeans**

HASH blue jeans where bell bottom and had a double-star design and the letters H.A.S.H. stiched in gold thread on the back right pocket. Many teenageres cut-off the pant legs to make shorts with frayed fringes. The shorter the better. I still have a pair that I got from a teenage neighbor for helping her clean her mom's kitchen so she could go out with her boyfriend.

- **Halter Necks.**
Bright halters or just plain black. Perfect worn with a wrap-around frilled jacket!
- **Hip Huggers**
How quickly we forget. Those bell bottoms with the "waistline" striking just below the belly button. Double front zippers were pretty fashionable, one on each side.
- **Hotpants**
Very short dressy shorts, usually plush velvet, with a wide, usually white, belt, to match your white go-go boots.
- **Jordache Jeans**
Tight jeans, dark blue the best, actually ironing them was a good idea. Late 70's-very early 80's
- **Maxi Dresses**
Full length dresses for parties, etc, like a bridesmaid's dress, worn with choker and crochet shawl, usually a fitted bodice and A-line skirt
- **Mood Rings**
A ring which was suppose to decribe what mood you were in by your body heat. Ex: Black= Bad Mood!
- **Moon Boots**
I think these were late 70s, early 80s: winter boots with platforms that look like something Neil Armstrong would wear, except for the colors -- mine had three or four different shades of bright blue, but they came in all colors.
- **Painters Pants**
They came in white or baby blue...maybe more colors...a lot of pockets and a loop for hanging (a hammer?) something on the side of one leg....
- **Peasant Skirt**
A trendy knee-length skirt with a swinging movement. The most popular colors were black, white, beige, tawny, tan, pink, blue, red, purple, gray, burgundy(definately bungundy) and pea green.
- **Petticoat**
White cotton underskirt with broderie anglaise trimmed frill, worn under another skirt but longer and therefore visible. Also trend to trim hem of a skirt with similar decoration to simulate the sae effect. Lasted one season only in 1978
- **Pin Striped Pants**
Flared material pants with a fine vertical, single or double dotted line running through the pant. Usually in navy blblue or dark brown.
- **Platform Shoes**
Shoes with a sole of at least 6 or 7 inches high. Made you look taller than you really were.
- **Polyester Leisure Suit**
That flashy gleam of synthetic, complete with wide lapels, top shirt-button undone to reveal just the right amount of of chest hair and gold chainage, accompanied by a strong whiff of Canoe. Think Warren Beatty in "Shampoo." This was the uniform of the 70s lothario.

- **Poncho**

A blanket like cloak with a hole in the middle for the head to go through. The patterns were based on American Indian styles, colourful or with alternating coloured stripes. Sometimes made with natural hand spun wool. Some came with tassles at the bottoms or pompons. They were long covering your thighs.

- **Prism Necklace, Ring**

These were usually in the form of a sphere,sparkled, multi-colored and very, very cool. They hung from a silver (cheap lol) chain or were worn as a ring, also silver.

- **Puka Shells**

If you didn't have a set of Pukas (a choker) real or plastic you weren't from the 70s

- **Rock Concert T-shirts**

Ordinary t-shirts with a logo picture of a rock star or a rock band or trademark of rock band.

- **Rugby Shirts**

They were long sleeve shirts with horizontal wide stripes. They came in a variety of colors . But the most popular seemed to be alternating blue and yellow stripes.

- **Satin Jackets**

They were usually in blue, pink, red, or green, and had stripes or just plain. They were similar to baseball jackets, very sporty, and very cool.

- **Shirt: Nat Charles/California**

A shirt revealing black art; abstract drawings of faces surrounded by red, black and green colors. There was also white in all of the faces that seemed to represent the bright rays of a sun. There were words written underneath the images: "Right On", "Soul", "Jive", "Jive Man". But the shirt material was very sensitive to daylight and had a tendency to fade when worn under the sun.

- **Soul Pipes**

Trousers with cone-shaped pipes.

- **Toe Socks**

Socks with pockets for each one of your toes - usually in rainbow colors.

- **Toes in Socks**

These were a fashion disaster. The socks have toes in them like gloves, only each toe was a different color

- **Toughskins**

A SEARS brand of jeans that were reinforced at the knees and came in assorted colors. The POORMAN'S Levi's

- **Track Shorts**

Sports shorts that are really short, with double white stripes at the sides and tiny slits at the sides

- **Treds (shoes)**

I don't know if every country had these but here in Australia we had 'Treds'. I think that is how you would spell it. They were sort of sandals I suppose but the bottom sole was made out of old car

tyres.

- **Trench Coats**

Coats that are 3/4 length with long sleeves, buttons at the front, two-front pockets, and a belt which ties around the coat.

- **Tube Socks!**

Don't forget the knee socks with the double row of red/blue/black stripes! Very sporty!

- **Velour Windsheaters (Wind Breakers)**

Velour tops in a range of single coloured, or ones with multiple coloured strips. Usually with ribbed round the neck line, ribbed at the end of the sleeves and at the bottom waist bend. They felt "very smooth" to touch.

- **Wraparound Pants and Skirts**

These were so popular in the mid 70's. The pants were made of cotton, in alot of different colors, and they were put on the back of your legs, then somehow wrapped around the front part, and then you tied them, the skirts just wrapped around from one side to the other.

We also have pages on this topic devoted to the 80s and 90s

Would You Like To Add Something We Missed?

Please feel free to add something to this page. We're looking for a name and description of every major fashion item to appear during the 70s. Entries do not appear immediately to prevent abuse of the page.

Fields marked with * are required!

Your Name:*

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Clothes Name:*

Describe it:

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

<p>MEYNARD DESIGNS, INC. AND EARTH, INC.</p> <p>Plaintiffs and Counterclaim-Defendants,</p> <p>v.</p> <p>EARTH PRODUCTS INC.</p> <p>Defendant and Counterclaim-Plaintiff.</p>	<p>Civil No. 1:05-CV-11781 NMG</p> <p>Judge Nathaniel M. Gorton</p>
<p>EARTH PRODUCTS INC.</p> <p>Third-Party Plaintiff and Counterclaim-Defendant,</p> <p>v.</p> <p>PLANET, INC.</p> <p>Third-Party Defendant and Counterclaim-Plaintiff.</p>	<p><u>CONTAINS CONFIDENTIAL INFORMATION SUBJECT TO A PROTECTIVE ORDER</u></p> <p>FILED UNDER SEAL WITH THE COURT IN ACCORDANCE WITH THE ASSENTED-TO MOTION TO FILE UNDER SEAL FILED ON OCTOBER 31, 2007 (DOCKET #67) and PER ORDER DATED NOVEMBER 8, 2007</p>

EXHIBIT 12

FILED UNDER SEAL

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

<p>MEYNARD DESIGNS, INC. AND EARTH, INC.</p> <p>Plaintiffs and Counterclaim-Defendants,</p> <p>v.</p> <p>EARTH PRODUCTS INC.</p> <p>Defendant and Counterclaim-Plaintiff.</p>	<p>Civil No. 1:05-CV-11781 NMG</p> <p>Judge Nathaniel M. Gorton</p>
<p>EARTH PRODUCTS INC.</p> <p>Third-Party Plaintiff and Counterclaim-Defendant,</p> <p>v.</p> <p>PLANET, INC.</p> <p>Third-Party Defendant and Counterclaim-Plaintiff.</p>	<p><u>CONTAINS CONFIDENTIAL INFORMATION SUBJECT TO A PROTECTIVE ORDER</u></p> <p>FILED UNDER SEAL WITH THE COURT IN ACCORDANCE WITH THE ASSENTED-TO MOTION TO FILE UNDER SEAL FILED ON OCTOBER 31, 2007 (DOCKET #67) and PER ORDER DATED NOVEMBER 8, 2007</p>

EXHIBIT 13

FILED UNDER SEAL

EXHIBIT 14

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

MEYNARD DESIGNS, INC. and EARTH,
INC.

Plaintiffs and
Counterclaim-Defendants,

v.

EARTH PRODUCTS INC.

Defendant and
Counterclaim-Plaintiff.

EARTH PRODUCTS INC.

Third-Party Plaintiff and
Counterclaim-Defendant,

v.

PLANET, INC.

Third-Party Defendant and
Counterclaim-Plaintiff.

CIVIL ACTION NO. 05 cv 11781 NMG

**ANSWERS TO COMPILED LIST OF QUESTIONS
FOR DEPOSITION OF MR. ASCARI TSHAKA**

Direct Examination Questions
(by Earth Products, Inc.)

1. Please state your full name for the record.

ANSWER: Ascari O. Tshaka

2. Do you have a medical condition that limits your ability to participate in this deposition and provide testimony in this case?

ANSWER: Yes

5. What was the business of Tonus?

ANSWER: Ownership and licensing of the Earth Shoe marks, meaning Earth, Earth Shoe, Anne Kalso Earth Shoe and Kalso Earth Shoe.

(Mr. Tshaka asked to see, and was shown, Exhibit 7, Schedule A, page M000421)

a. Does Tonus still exist?

ANSWER: No

b. Did Tonus sell Earth Shoes having a negative heel construction?

ANSWER: No, Tonus did not sell shoes. Tonus was an entity that was protecting the marks.

i. If yes, were those shoes designed by Anne Kalso?

ANSWER:

c. Did Tonus sell any shoes or clothing in connection with the EARTH trademark before 1989?

ANSWER: No, Tonus did not sell anything. Around that time, '88-'89, Aorta was selling shoes.

i. If so, state whether the EARTH trademark was used in connection with clothing or shoes or both.

ANSWER: (Mr. Tshaka asked to see a brochure and was shown Exhibit 2, M001711-12).

Aorta used the Earth trademarks for shoes. Earth was used, Earth Shoe, and Kalso Earth Shoe.

There were also burlap tote bags given to customers by Aorta at the store. It was a gesture, as the shoe box already had a handle, so someone would not leave the store just carrying a box. The bags were reusable, and had either the Earth Shoe mark or the Earth mark alone, I don't recall.

ii. If the EARTH trademark was used in connection with clothing, describe what types of clothing articles it was used with.

ANSWER: Aorta did not sell clothing. I thought about doing it, and Ray Jacobs had done so in the past – he had hats and scarves and had other ideas. I worked on the labels in the hats and I believe they had Earth but not Earth Shoe. This was back in the 1971-1972 time frame, early '70s, before 1975, I know that much.

d. Did Tonus sell any shoes or clothing in connection with the EARTH SHOE trademark before 1989?

ANSWER: No, Tonus did not sell anything. Around that time, '88-'89, Aorta was selling shoes.

i. If so, state whether the EARTH SHOE trademark was used in connection with clothing or shoes or both.

ANSWER: Aorta used the Earth trademarks for shoes. Earth was used, Earth Shoe, and Kalso Earth Shoe. The burlap bag I described above used an Earth mark, but I don't recall whether it was Earth alone or Earth Shoe. I thought it was a nice touch. People could use them for a lot of things. I thought that if it turned out to be something, I could always have them made up.

ii. If the EARTH SHOE trademark was used in connection with clothing, describe what types of clothing articles it was used with.

ANSWER: Aorta did not use the Earth trademarks, including the Earth Shoe mark, for clothing.

6. Did you or any business you have been affiliated with use the EARTH trademark in connection with shoes?

ANSWER: Yes, Aorta used the Earth trademarks, including Earth, Earth Shoe and Kalso Earth Shoe. I don't recall whether Anne Kalso Earth Shoe was on the shoes, I can't say.

Kalso Systemet was my employer in the early '70s and they also used the Earth trademarks.

- a. If so, did all of the shoes sold in connection with the EARTH trademark have a negative heel construction?

ANSWER: Yes

- b. Did all of the shoes sold by Tonus in connection with the EARTH trademark have a negative heel construction?

ANSWER: Tonus did not sell shoes. Aorta did as Tonus's licensee, and all of those were negative heel.

7. Did you or any business you have been affiliated with use the EARTH SHOE trademark in connection with shoes?

ANSWER: Yes, Aorta used the Earth trademarks, including Earth, Earth Shoe and Kalso Earth Shoe. Kalso Systemet was my employer in the early '70s and they also used the Earth trademarks including Earth Shoe.

- a. If so, did all of the shoes sold in connection with the EARTH SHOE trademark have a negative heel construction?

ANSWER: Yes

- b. Did all of the shoes sold by Tonus in connection with the EARTH SHOE trademark have a negative heel construction?

ANSWER: Tonus did not sell shoes. Aorta sold only negative heel shoes.

8. Did you or any business you have been affiliated with ever use the EARTH trademark in connection with any type of product other than shoes?

i. Do the style names reflected in these documents, including Derby, Sport, Forest, Twin, etc. represent styles Tonus (or a company authorized by Tonus) sold under the EARTH trademark?

OBJECTION: VAGUE, AMBIGUOUS, COMPOUND

ANSWER: Yes.

j. Were Aorta and Kalso Systemet authorized by Tonus to sell EARTH goods?

ANSWER: Yes, as to Aorta. Kalso Systemet went bankrupt in the United States. Tonus had rights to all of the Earth marks worldwide except Denmark. Tonus did not authorize Kalso Systemet in Europe to sell Earth goods.

k. From 1985 - 1994 were you (whether individually or as president of Tonus) affiliated with the entities identified in Exhibit 8, namely:

ANSWER:

i. Aorta; or

ANSWER: Yes

ii. Kalso Systemet?

ANSWER: I had nothing to do with Kalso Systemet in Denmark. Kalso Systemet did not exist in the U.S. after the bankruptcy. I don't know why and don't recall why Kalso Systemet is shown on any of the receipts in Exhibit 8.

iii. For each company with which you were affiliated in response to sections (i) and (ii), describe your affiliation.

ANSWER: I was the president of Aorta.

l. Did Tonus (or a company authorized by Tonus) make catalog sales of goods having the mark EARTH using a toll free number?

OBJECTION: VAGUE, AMBIGUOUS, LACKS FOUNDATION

ANSWER: Yeah, yeah.

h. Were the shoes sold as reflected in these documents sold under the EARTH mark (on packaging, sole, buckle, inner labels, tags, etc.)?

OBJECTION: VAGUE, AMBIGUOUS, COMPOUND

ANSWER: They were sold under all three marks, Earth, Earth Shoe and Kalso Earth Shoe. It was very important to keep Earth. That's the whole key. That's why we always had the "R" over the "Earth." I returned to the United States from Denmark on a permanent basis in 1988-1989 to commercialize the use of Earth, Earth Shoe and Kalso Earth Shoe to protect the marks. We sold shoes to keep the marks alive. My hope was that there would be a company interested in a license and developing a new concept. We had written to many companies. You name the shoe business and we wrote letters to them. Gus and I were doing this since 1984-1985. Gus more so than I. I tried to develop new products to enhance the value of the marks, to get someone interested. I redesigned the sole with Anne's consent to make it less aggressive in the sense that the inside of the heel itself had less pronation.

i. Do the style names reflected on the pages of Exhibit 9, including Derby, Sport, Forest, Twin, etc. represent styles Tonus (or a company authorized by Tonus) sold under the EARTH trademark?

OBJECTION: VAGUE, AMBIGUOUS, COMPOUND

ANSWER: Yes

j. Aside from the items in Exhibit 8 and Exhibit 9, would Tonus have had at any time other business records indicating the sale of EARTH goods from 1985 to 1994 that were lost or destroyed before the transaction with Mondial in 1994?

OBJECTION: VAGUE, AMBIGUOUS, CALLS FOR LEGAL CONCLUSION, LACKS FOUNDATION

ANSWER: Not that I know. There could have been more, of course, but I gave them all I could find. The items in Exhibit 8 and 9 reflect sales by Aorta.

i. If so, describe the circumstances relating to those lost or destroyed records.

ANSWER:

32. Please see M001697, 1699, 1700, 1702; M002784, 2785, 2786; M002792, 2794, 2795, 2796, 2797; M002913, 2917 and 2918, collectively Exhibit 10.

ANSWER:

a. Were these advertisements placed by you or a company with Tonus's authorization for goods sold under Tonus's EARTH, EARTH SHOE and KALSO EARTH SHOE marks?

ANSWER: They were placed by me.

b. Did Aorta or another seller authorized by Tonus place similar advertisements in other publications between 1985 and 1994?

OBJECTION: VAGUE, AMBIGUOUS

ANSWER: There could have been more than this, I can't say.

c. If so:

i. What company placed the ads;

ANSWER: I would have placed all of the ads.

ii. In which publications the ads were placed;

ANSWER: I put ads in small or alternative newspapers.

iii. How regularly the advertising occurred;

ANSWER: It was sporadic actually, no marketing plan. Tried to see if there was any feedback. If there wasn't any, you wouldn't renew.

iv. What years the advertising occurred;

ANSWER: Throughout Aorta's existence from 1988-1989 until the sale to Mondial. I think I kept the Columbus free press longest. I did the Village Voice a lot. Towards the end, it slowed down.

v. If you recall, please explain what you recall.

OBJECTION: VAGUE, AMBIGUOUS

ANSWER: That's all I recall.

33. Is it your understanding the Tonus owned both the EARTH and EARTH SHOE trademarks from 1985 until the marks were assigned to Mondial in 1994?

ANSWER: Yeah, exactly, that's right.

34. Did Tonus at any time it owned the EARTH and EARTH SHOE marks intend to abandon either of those marks?

OBJECTION: CALLS FOR LEGAL CONCLUSION

ANSWER: Never.

35. From 1985 to 1994, was it the intent of Tonus to continue to expand its sale of goods under the marks EARTH, EARTH SHOE, and KALSO EARTH SHOE, whether directly or through a license program?

ANSWER: Yes. Tonus did not sell goods. Tonus was always looking for someone to come in as a licensee or as a buyer.

36. At any time from 1985 to 1994 did you take steps, such as seeking out licensees, to improve the distribution of goods under the EARTH and EARTH SHOE marks?

ANSWER: Yes

40. When you began negotiations to license or sell the EARTH and EARTH SHOE brands, did you believe the brand had value?

OBJECTION: VAGUE, AMBIGUOUS

ANSWER: Yes, I did. I would like to have been able to do more with it. Yeah, it had value.

a. If so, please explain the basis for this belief.

ANSWER: Well, Kalso Systemet, or Kalso Systems (in the U.S.), I don't recall, was a company that at the time of bankruptcy was doing over \$50 million a year in sales. It was the rage of the shoe industry. Actually it saved it in many ways. Everybody from Bob Dylan to Greta Garbo wore Earth shoes. It had very strong name recognition. Even today people still know about Earth shoes.

41. Do you recall that Tonus had other offers to buy or license the marks during the time that Tonus owned the mark?

ANSWER: No, I don't recall.

a. If so, do you consider these offers to reflect that the marks and the business associated with the marks continued to be valuable?

ANSWER:

42. Referring to Exhibit 6, if you signed this declaration, do you have any reason to believe the statements in that declaration were not true when you signed the statement? If so, why?

ANSWER: No, I thought them to be true.

a. Do you currently have any reason to believe any portion of Exhibit 6 is inaccurate? If so, why?

ANSWER: No. It is all true.

b. At the time Exhibit 6 was submitted to the United States Trademark Office, did you have any intent to mislead the trademark office?

ANSWER: None.

43. Please look at M002780-2783, Exhibit 13.

a. Were these documents being distributed by a company authorized by Tonus to sell EARTH goods from 1985 to 1994?

ANSWER: Yes.

i. If so, in what years were they distributed.

ANSWER: Through the whole time. There are two documents. The brochure was sent upon request, or, I also did a mailing a couple times. The brochure was always available at the store. The other document was a poster. I prepared it. It was used to put up at fairs and as I traveled around to communities where I thought there would be interest, like near health food stores or vegetarian restaurants. I would staple them up, guerilla style. It wasn't very successful.

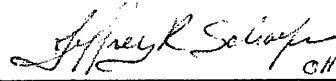
ii. Please explain the circumstances of any distribution. By way of clarification of the question only - Was it by mail, handed out at trade shows, which states did they go to, etc.?

OBJECTION: VAGUE, AMBIGUOUS, COMPOUND

ANSWER: See my answer above. As to the poster, essentially just the East and Ohio. I was going back and forth to New York, that's where the market was. The brochures went everywhere.

(ending 6/01/07 4:15 PM)

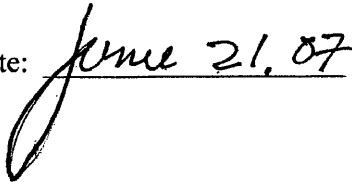
As to Objection to Exhibit 14:

 CH REG. 0061232

Jeffrey R. Schaefer
Ulmer & Berne LLP
600 Vine Street, Suite 2800
Cincinnati, Ohio 45202
Tel: 513/698-5108
Fax: 513/698-5109
Attorney for Ascari O. Tshaka

I, Ascari O. Tshaka, state, under penalty of perjury, that the answers I have provided above are true to the best of my knowledge and recollection.

Date:

 June 21, 07





Ascari Tshaka

EXHIBIT 15

Order Form

1st Pair
Please send me one pair of _____ \$ _____ Price
size* _____
First colour choice _____
Second colour choice _____

2nd Pair
Please send me one pair of _____ \$ _____ Price
size* _____
First colour choice _____
Second colour choice _____

Payment
I enclose cheque/money order \$ _____ Total Price
Charge to my  
number _____
Expiration Date _____

*Please include tracing outline of your feet to ensure accurate fit.
All orders will be dispatched promptly, but please allow up to 28 days.
Ohio residents, please add 5.75% sales tax.

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Twin Rivers

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Columbus, Ohio 43216

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Phone 614/861-6648 or 614/291-4025



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City _____

State _____ Zip Code _____

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Signature _____

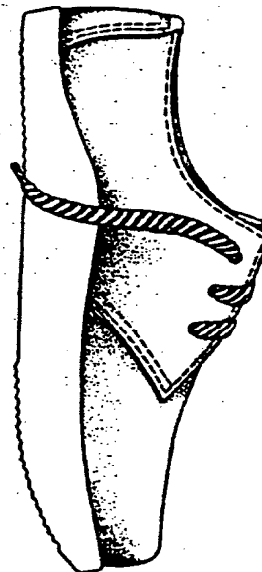


AORTA, Inc.

Twin Rivers

P.O. Box 18042

Columbus, Ohio 43216



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Walking



Anne Kalso

The Story: Earth® Shoe

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To meet this need, a yoga teacher, Anne Kalso of Copenhagen, invented the Earth negative heel shoe in 1957.

While in pursuit of her life long interest in Yoga, Anne Kalso's studies took her to the great Hindu school of Yesudian in Zurich and later to the Yoga monastery in Santos, Brazil. In the course of her studies and experiments, she observed that by flexing the foot, or by lowering the heel one could achieve a feeling similar to that attained in the lotus position of Yoga.

This awareness inspired her to develop (with the aid of a Brazilian hand shoe maker) a primitive version of a sandal with the heel lower than the toes.

Subsequently, she began to observe the noble carriage of the Indians with their foot imprints in the sand, and it was confirmed to her that when mankind walks in soft earth the weight of the body is sunk low into the heels! Returning to Denmark, she began experimenting further with this principle. For ten years she developed and refined her designs. She tested the new models herself on walking trips of hundreds of miles. Every nuance of their design and structure grew out of her intense concern and care.

"Our Shoes are your Shoes" Earth®

This uniquely contoured sole which has been newly modified by Anne Kalso will allow you to walk in a gentle rolling motion, which helps to develop a more natural, graceful walk. In effect you are walking barefooted on the beach . . . or across a summer field. Earth Brand shoes are a form of exercise, some may find our unique heel seat may take getting use to; so moderate wear is advised in the beginning. There is no reason why you cannot interchange the use of other shoes with the Earth brand shoe.

"Discover the Beauty of our Handcrafted Foot Wear."

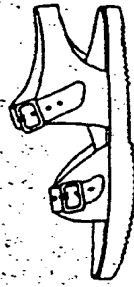
Earth® Shoes are made from the finest old leathers, with all rubber soles.

Our shoes are fully guaranteed, and if for any reason you are not totally satisfied, return shoes along with sales slip and all monies will be refunded.

1252 TWIN

Colours: brown, walnut & white

(w) sizes 35 - 42 (U.S. 5 - 11)
(m) sizes 41 - 48 (U.S. 7 - 14)
\$81.00 p.pd



1212 DERBY

Colours: brown, walnut & natural

(w) sizes 35 - 42 (U.S. 5 - 11)
(m) sizes 41 - 48 (U.S. 7 - 14)
\$97.00 p.pd



1211 SPORT

Colours: brown, walnut black, white & bordeaux

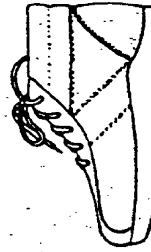
(w) sizes 35 - 42 (U.S. 5 - 11)
(m) sizes 41 - 48 (U.S. 7 - 14)
\$110.00 p.pd



1262 TRAMP

Colours: brown, walnut & bordeaux

(w) sizes 35 - 42 (U.S. 5 - 11)
(m) sizes 41 - 48 (U.S. 7 - 14)
\$130.00 p.pd

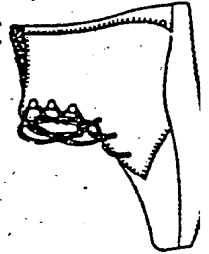


1172 FOREST

Colours: brown, walnut & bordeaux;

100% Lambs wool lining

(w) sizes 35 - 42 (U.S. 5 - 11)
(m) sizes 41 - 48 (U.S. 7 - 14)
\$135.00 n.pd

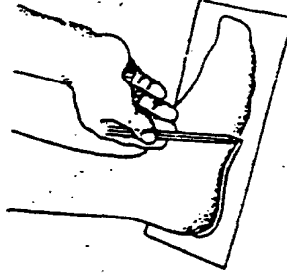


HOW TO TRACE ROUND YOUR FEET

Ordering properly fitting shoes by mail is really quite simple. All you need is a large sheet of paper, a pencil or ball point pen, and a friend to help.

Place the sheet of paper on a hard, flat surface. The floor or a large book on top of the carpet will do.

Wearing only thin socks or stockings, stand erect on the sheet of paper with your feet about 3 inches apart and your weight evenly distributed. Your friend should then trace on the paper the outline of each foot, keeping the pen our pencil in a vertical position and as close as possible to your foot. An accurately traced outline of each foot is all we normally need in order to send you a properly fitting pair of shoes. Please include your regular U.S. shoe size for reference.

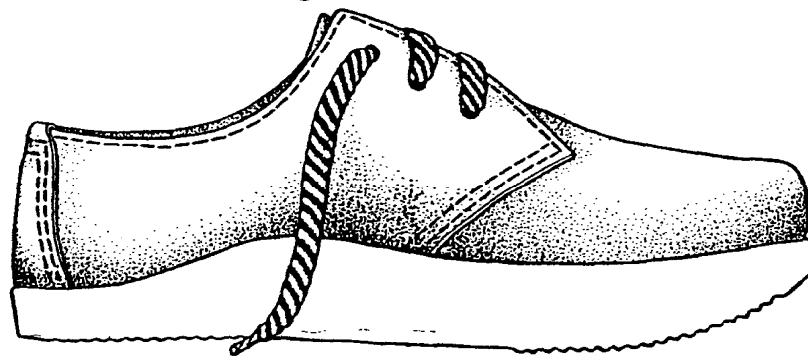


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The Original Danish design
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In natural surroundings,
varied and irregular surfaces
provide the optimum conditions
and stimulation for healthy feet.

Modern urban life generally fails to
provide the right balance of conditions;

Therefore, we offer the

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Aorta, Inc.

P.O. Box 18042

Columbus, Ohio 43216



Editorial

Conventional War and Peace

by Pat Schmucki

Columbus recently experienced the latest and most public round of *The Battle of the Titans*. Unfortunately, as is often the case in a battle zone, innocent people got caught in the fire. Luckily, they stood their ground and weren't seriously injured.

I'm talking about the controversy surrounding the convention center design competition. The competition is over and so is the controversy, which many believed was contrived by a small minority of business people who didn't like the fact that they couldn't handpick the architect themselves, as is the case with decisions made about many other projects in Columbus.

We'll never know if that was Leslie Wexner's intent when he offered to sponsor the competition, but it doesn't matter since the result is the same: we've got a convention center design by an internationally renowned architect, Peter Eisenmann, and an accomplished local firm, Trott and Partners. A design that was chosen by architecture and convention experts as well as neighborhood representatives and a variety of community members.

Jury chair Robert S. Livesey, who's the head of Ohio State's department of architecture, says that the jury liked the scale of the design — there are 15 small facades along High Street, each with its own character — the fact that it is memorable and will fit in. "We think it's a brilliant solution to that problem (of integrating with the surrounding neighborhoods.) Many cities have these massive, bulky structures that people go out of their way to avoid. But this will draw pedestrian traffic," he notes. "That's a breakthrough."

Livesey and those closely involved were pleased with the process of the design competition as well as the quality of all three architectural teams and their concepts.

The Convention Facilities Authority had been pressured from the start by reports and editorials in *The Dispatch* as well as a number of business leaders and elected officials, such as the county commissioners, to, in essence, dump the competi-

tion and go with a design by a local architect. CFA members weren't to vote on whether to accept the jury's recommendation until April 11, but chose instead to accept the Eisenmann/Trott design on the morning of the jury's announcement. It was a wise move. Another week of negative comments and editorials would have been detrimental to the process as well as the community.

There are still naysayers, but it's time, particularly for elected officials, to take some time to learn exactly why the jury and the CFA chose the design. Their support will be needed in the near future as the CFA tackles other difficult tasks such as a lack of money.

Since CFA can't levy new taxes and money doesn't fall from the sky, elected officials will have to help come up with the extra funding needed to properly operate and market the center. City Council members should consider allocating a larger percentage of the bed tax to the convention center. Currently it is divided between the Greater Columbus Convention Bureau, the Greater Columbus Arts Council and human services. The latter two entities should be funded out of the city's general fund. After all, the bed-tax dollars come directly from the hotel/motel industry.

CFA chairwoman Sally Bloomfield, has mentioned the possibility of freezing the dollar amount allocated to those two agencies, and giving any increased dollars to the convention center in the future.

There has been some question as to whether the center will be built at all given the authority's inability to secure bonding. But as Bloomfield states, "If we have the will, it will happen." She believes that once community leaders, elected officials, the lawyers and accountants sit down and hash it out, and are willing to work together, putting petty politics aside, the bond problem will be solved, as will other money questions and issues such as a shortage of parking.

Bloomfield, who has taken the brunt of criticism, should be commended for her perseverance. She and the other members of the CFA are non-paid volunteers who have met 18 times over the last eight months at 7:30 in the morning and about 30 other times in sub-committee meetings. They worked fast and have thus far accomplished the tasks at hand. Their work is not done, but we can certainly celebrate the fact that a design has been chosen that is highly unique and offers Columbus a world-class structure for its convention center.



A Different Perspective

On behalf of The Franklin County Convention Facilities Authority, I would like to express my gratitude to you for the editorial in the *Columbus Alive* edition (March 30-April 13, 1989). In addition, I would like to commend Pat Schmucki for her comprehensive coverage of the design contest. From our perspective, it was great to see a thorough and more objective coverage than some of the other media.

Again, thank you for your support and for your thoughtful consideration of a very important issue to the Columbus community. Sally Bloomfield, Chair Franklin County Convention Facilities Authority

Bananas in Flight?

Regarding *Brushstrokes in Flight*. Your comment that it is one of Columbus' Jewels. ABSURD. *Brushstrokes* looks like balanced bananas at Central Market. It represents Columbus in the eyes of an ARTSY person. It's ugly. It should stay at the airport out of sight (sic). Its value fluctuates: the price of scrap iron. The people of Genoa, Italy rejoiced when Columbus withdrew its gift offer of *Brushstrokes*. If *Brushstrokes* is a Columbus jewel, then the Love Canal is a national treasure.

Richard A. Davis

I read with great enthusiasm your March 30th edition of *Columbus Alive* regarding the Convention Center. Your portrayal of the controversial project was refreshing and objective.

As Columbus aspires to be a great city, small town politics should not overwhelm us. Controversial issues can be a means to grow by if viewed in an objective context.

Harlan Schottenstein
Vice-President, ENBE Inc.
General Partner of ENBE Ltd.

COSI's 25th

On behalf of everyone at COSI, I'd like to thank you for the spectacular piece you did on COSI, Ohio's Center of Science & Industry.

The article is extremely accurate and probably one of the most comprehensive stories ever written about our history through the eyes of COSI's most important asset — our visitors.

Thanks again for making our 25th birthday a truly exciting one. Heather Weigand, Director Public Relations and Promotions, COSI



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• DJ Fri. & Sat. nights
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THROUGH ACID RAIN TO THE LOWER 48, WHERE IT HAS MIXED -
WITH TOXIC WASTE IN NEVADA AND UTAH -
OVERFLOWED THE BANK OF THE MISSISSIPPI, SEEPING INTO WELLS AND RESERVOIRS IN 9 STATES -
CAUSING 3,000 TO BE HOSPITALIZED AND DESTROYING THE CORN CROP OF IOWA -
AS WELL AS THE DESTRUCTION OF 1200 ELK IN WOSHUTE NATIONAL PARK -
ENERGY EXPERTS CALL FOR A SWIFT CONVERSION TO NUCLEAR ENERGY -
WHICH THEY FEEL CAN BE MADE SAFELY AND ECONOMICALLY TO PREVENT ACCIDENTS -

PAGE 32

ISTHMUS • THE CULTURE

MAY 19, 1989

GOODS & SERVICES

PAGES 32-33

JUST NAILS



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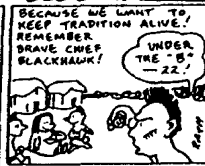
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Continued from Page 31

THURSDAY, May 25

2:30 Anne & the Metro Stars Band, Badger Bowl, 9 pm.
House Concerts, Capitol Hill Super Club, 8:30 pm to 12:30 am, no cover.
Jimmy the Go-Go Man, Club de Wash, 10 pm, \$3.
Paul Black & the Fly Kings, Crystal Corner Bar, 9:30 pm, \$3.
Brian Erickson, Essen Haus, 8:30 pm, no cover.
John Thompson, King along piano, First on Dayton Concourse Hotel, 7:30 pm to 12:30 am, no cover.
"Fanny Business Comedy" w/Man Savers, Greg Phelps and host Dave Gray, 9 pm, \$4, and "New Nightlight," 11 pm, \$3, Fanny Business Comedy Club, State Street Center.
Larry Catline, the Gallery, Middleton, 7:30 to 10:30 pm.
John Wolfe, classical guitar, the Monastery, 6:30 to 8:30 pm.
Richard Simulak & the Equesters, Ner Bar, 9:30 pm, cover.
Valeo of Concern w/This the Hour, O Cayz Corral, 9 pm, \$3.
Live comedy, Piccadilly Comedy Pub, Concourse Hotel, 9 pm, \$4.
C.B. & the Rude w/Charlie Brooks, R&B Jam, Rick's Cafe & Saloon, 9 pm, \$2.
Bixby, acoustic series for local groups, Storefront Theatre, State Street Center, 8:30 pm, \$3.
Comedyquartz, Wendy's on State, 8 pm, \$5, \$4.

DANCING

Chevre Dance—Traditional country social dancing to the music of the Madison Contra Dance Orchestra, with Reid Miller as caller; potluck supper at 7 pm, dancing at 8, 5-19, Fischer Hall, Paoli. Partners not required; well-dressed precedes each dance. 251-6133 or 258-3445.
Square Dance—Callie Buzz Kaczmarek and the Westport Squares bid welcome home to the "Show Dance," 8:30 to 11 pm, 5-19, Westport Town Hall, 5381 Mary Lane Rd. All area dancers are welcome as well. 271-5717.
Bare Dance—To live music, sponsored by the Wild Hog in the Woods Coffeehouse; clog instruction at 7:15, 15-19, dancing from 8 to 11, 5-20, Old Park Barn, 1155 E. Lakeside St. All dances are taught \$3. 257-6337.

DJs

Alone Society—9:30 pm to 12:30 am, last Saturday of every month, in a drug- and alcohol-free atmosphere; 511 N. Carroll St. \$3 gen., \$2 members.
E. Badger Bowl, no cover.
Bernades—9 pm, Tuesdays through Saturdays, closed Sundays & Mondays; 103 N. Park St. \$2 Fridays or \$1 w/Student ID, \$1 Saturdays, no cover Tuesdays through Thursdays.
Cardinal Bar—8 pm, Tuesdays through Sundays, closed Mondays; 418 E. Wilson St. Cover varies.
Headliners—Doors open at 8:30 pm, Wednesdays through Saturdays, live music on Tuesdays and occasionally other days; on the University Ave. \$2 after 10 pm on Saturdays, otherwise free on dance nights; cover for live music shows.
Madison Dance Room—8 pm, Fridays live music once a month, no smoke or alcohol; Turner Hall, 21 S. Butler St. \$2 DJ dances, \$3 live music. (The "last hurrah" is on 5-19).
New Bar—Nightly; 836 W. Washington Ave. in the Washington Hotel, \$2 on Tuesdays, Fridays and Saturdays, otherwise free.
New Loft Teen Center—8 to 11:30 pm, Fridays and Saturdays occasional live music; for high school age teenagers only; Community Center, 112 N. Farchild St. Cover.
Rusty's—Tuesdays through Saturdays; 6413 University Ave., Middleton. No cover.
Sagehen Ballroom & Studio—Ballroom-style dancing from 8:30 pm to midnight on Tuesdays, and dancing to a variety of music at 9 pm on Fridays; 1133 N. Sherman Ave. in the Northgate Mall, \$2-50 Thursdays, \$3 Fridays.
Sarge's Madison Ballroom—8 pm nightly; 1753 Thayer Rd. in the Princeton Mall. No cover.
State Street Center—"Crescent Moon Woman's Soak," for women only, 8:30 pm on the first and third Fridays of the month, second floor, \$3, and "Urban Dance Party," 9 pm on Tuesdays (use Dayton Street entrance), \$2; 122 State St.
The Treehouse—9 pm nightly; 2301 Traceway Dr. \$2 Thursdays through Saturdays, otherwise free.
The Willy Bear—"Acid Funk Night," 10 pm on Wednesdays, through May; 1210 Williamson St. \$1.

FOLK

Scottish Country—Instruction followed by request dancing, with beginners welcome, 6:30 pm instruction, 7:30 pm dancing, Sundays, UW Memorial Union 800 Langdon St. The Madison Scottish Country Dancers sponsor. 258-3445.
International—Instruction at 7:30 pm and request dancing from 8:30 to 11 on Sundays and Wednesdays, with dancing for beginners at 7:30 pm on the first and third Sundays of the month; University United Methodist Church, 1127 University Ave. Folkdancers unlimited in sponsor. 238-9951.
Scandinavian—8 to 10 pm on Tuesdays; UW Union South, 227 N. Randall Ave. No need to bring partners, and dances are taught.

ON TAP

"A Prairie Home Companion" w/Garrison Kellner, 5-26, Civic Center 8 pm \$16.50, \$14.50 260 9055.
Bonnie Gilbert w/Salvatore, 5-28, Barrymore Theatre 8 pm \$12.50 adv., \$14.50 do's 241-2345.
The Replacement, 6:3, Civic Center 8 pm \$15.25, 266-9055.
The Lexington Dixieland Jazz Band, 6-7, Barrymore Theatre, 8 pm \$11.50 adv. \$13.50 door. 241-2345.
Hazel Griffin & the Blue Moon Orchestra, 6-11, Barrymore Theatre 8 pm \$12.50 adv. \$15 door. 241-2345.

DOWN THE ROAD

Alpine Valley, East Troy—The World Series of

Rock, w/Porson, White Lion, Testa, Winger and the Bulletboys, 5-27 & 28, Ritz w/Great White and Kix 6-3, Metacafe w/The Cuck, 6-24, the Dodge Brothers, 6-18, Kevin Matthews, 7-1, Ozzy Osbourne w/White Lion and Vixen, 7-14, The Who, 7-21 through 23, R.E.M., 9-8, the Jerry Garcia Band, 9-15, 414-271-2000.
Revolution in Milwaukee—The fourth annual Dixieland Jazz Jubilee, 6-11, 414-784-2956.
Olive Center—The Bolshoi Ballet Academy, 7-21 through 23, 266-6550.
Maroon Amphitheater, Milwaukee—Chicago w/the Beach Boys, 6-4, Steve Miller, 6-24, David Sanborn w/Brenda Russell, 7-27, Al Jarreau w/Tina Turner, 8-5 800-843-1558.
Beverly Theatre, Milwaukee—Kenny G, 5-27, "Night of the Guitar," w/Schuman Turner Overdrive, Lesia West, Sport, Wishbone Ash, the Jethos Tiers, 6-14, Dolly Parton, 6-15, "Dick Clark's American Bandstand Concert Tour," w/the Spinners, the Association, the Guess Who and the Drifters, 6-17, the Every Brothers, 7-29, 414-271-2000.

OTHER MUSIC

Wild Hog—Brett Kewitz does original tunes, blues and country on 5-19, and Dick Bagwell plays traditional songs of the British Isles on 5-25; Wild Hog in the Woods Coffeehouse, 306 N. Brooks St. Both shows at 8:30 pm; \$1 each night. 257-6337.
Army Band—Marking "Armed Forces Day," the 132nd Army Band 10:30 to 11:30 am, 5-20, State Street steps of the Capitol. Free. 268-8033.
Shengene Flute—It's 50 years with your flutes, as the Southern Wisconsin Bluegrass Music Association hosts a picnic and jam to celebrate "Bluegrass Month," noon to 8 pm, 5-20, Roundtop Park, East Washington Avenue and Portage Road (opposite East Towne). Picnics and flutists welcome; bring lunches and chairs. 233-7425 or 233-3558.
Santitas de la Riva—The 1988 winner of the "National Youth String Contest" in Granada, Spain, de la Riva presents works by Bach, Stravinsky, Brahms and others, accompanied by Chris Remy, Margaret Cornwell and Peter O'Brien, 8 pm, 5-20, Pres House, 731 State St. \$3, 257-3040.
WYSO—The final concert of the season by the Wisconsin Youth Symphony Orchestras include performances by the Philharmonia and the Concert Orchestra at 4 pm on 5-20 in Mills Concert Hall of the UW Humanities Building, 455 N. Park St. and the Youth Orchestra at 7 pm on 5-21, also in Mills. The Saturday concert includes selections from "Swan Lake," and works by Tchaikovsky, Bernstein and Wagner are featured on Sunday, 263-3329.
Celtic Harp—With harpist Kim Robertson, 3 pm, 5-21, St. Joseph Chapel, Edgewood College, 855 Woodrow St. \$5, 423-3095.
Children's Choir—A variety of sacred and secular music by the Madison Children's Choir, 3 pm, 5-21, First Baptist Church, 518 N. Franklin Ave. \$4 gen., \$2 seniors and students of high school age or younger. 233-7672.
"Weakest Memories"—Max Ward sings songs that were popular between 1900 and 1940 in the series, sponsored by Golden-Care, a program for older adults of St. Marys Hospital. Georgia Williams accompanies Ward on the Grand Banjo Organ. 10 am, 5-24, Civic Center, 211 State St. Free, with park-and-ride service available at 9 am from the parking ramp of St. Marys, 707 N. Mills St. for \$1 258-9995 for ride reservations.

ART

"Botanical Illuminations," paintings by David Kopleck, through 6-4, McKay Visitor Center, UW Arboretum.
Terracotta by Khamis Tenzin, through May, the Arts Co-op, 122 State St.
Images of Southwestern Indians by Frank Howell, through May, Art Haus, 5922 Highway 51, Stonefield Square, McFarland.
"Mighty Fine Art: A Seven-Year Collection" by Robert Patterson through May, The Barabar Artists Cooperative, 2007 Atwood Ave.
"Romantics, Realists and Impressionists: 19th-Century French Art," through 6-15, Broden Gallery, 114 State St.
Photography by Donald Sylvester, through June, Denny's Restaurant, Bettine and Highway 51.
"10th Anniversary Retrospective" by the Wisconsin Calligraphers Guild, Edgewood College, 855 Woodrow St.
"Visage of Nepal," photographs by Kevin Blumkin, through 7-16, Mayer Gallery, "Prints of Richard Bosman: 1978-88," through 7-9, galleries I & II and historical wooden sculptures from Central Africa, as the "Artwork of the Month," through May, Paige Court, Elvehjem Museum of Art, 800 University Ave.
"Signs of Spring," recent works by Janet Wehr, David DeSahn and Steve Carpenter through 6-9, Fanny Garver Gallery, 230 State St.
Oil paintings by Caroline Geier through May, First Wisconsin Bank Building, 750 N. Monrovia Blvd.
Cooperative showing in various media by 19 state artists, through 5-25, main lobby, GEF 1, 201 E. Washington Ave.
Works of handmade paper by Marvin Hart and Marynne Mau, through 6-3, Grace Christy Gallery, 218 N. Henry St.
"Little Landscape Paintings," by Paul Birnbaum, through June, Jaxters Workshop, 308 State St.
"Mothers," watercolors by Dr. John Carby, through May, 25/2 Shulzinger Gallery, UW Hospital and Clinics, 600 Highland Ave.
Artwork by members of Studio 8 through May, Lutheran Campus Center, 325 N. Mills St.
"The Art Quilt," contemporary quilts by 15 artists. "The Names Project," a multimedia installation about the national memorial quilt created in memory of AIDS victims, and "Arnold Mesches," paintings, conages and works on paper through 6-4, Madison Art Center, 211 State St.

August 1989 ★ Columbus Free Press ★ 11



Pizza delivery man Monkie (Spike Lee) offers advice to his employer's confused son Vito (Richard Edson). The movie, *Do the Right Thing* has sparked criticism from both black and white film critics. Photo courtesy of Universal City Studios

Spike Lee presents complex and dynamic look at race relations

by Manning Marable

Spike Lee's latest film, *Do the Right Thing*, has provoked the greatest political debate and controversy since the polemics surrounding the film version of Alice Walker's *The Color Purple*. As in the previous controversy, critics and defenders alike have focused less on the relative merits and weaknesses of the film as a work of art, and have focused instead on the movie as a cultural litmus test on race relations and the question of political powerlessness within African-American communities. What's required at this point is to separate an analysis of Lee's film from the charges and countercharges engendered by the movie, in order to shed light upon the broader political and social significance of the issues raised by the debate.

Do the Right Thing was written, produced, and directed by Spike Lee, a 32-year-old African American filmmaker, who has previously done two movies on Black-oriented topics. Lee's motivation for developing the film was sparked by the death of Michael Stewart, a graffiti artist who was killed by transit authority officers in New York for allegedly resisting arrest. The events of Howard Beach, New York, in which Black men were assaulted and one killed by a gang of white racists, further crystallized Lee's concerns about the state of race relations in America's largest city.

The essential storyline of the film is as follows. Based in a Black and Hispanic neighborhood in New York's Bedford Stuyvesant area, the events take place during one hot day during the summer on one city block. Lee presents a series of characterizations of Black low-income people, undereducated and jobless, but with a real sense of dignity and humanity. The characters include two Black elders, excellently portrayed by Ossie Davis and Ruby Dee; Buggin' Out (Giancarlo Esposito), the local neighborhood's activist who is upset by the lack of Black ownership in the community; Radio Raheem (Bill Nunn), a huge young man with an equally large ghetto-blasters; Smiley (Roger Smith), a young man with a speech defect who nevertheless represents the most politically advanced character in the entire film by his advocacy of the ideas of Malcolm X and Martin Luther King, Jr.; and Mookie, played by Lee himself, an unmarried father who works in an Italian American-owned pizzeria in the heart of the Black community.

The central antagonism develops when Buggin' Out complains to the owner of the pizzeria that there should be photographs of prominent African American artists, athletes and political leaders in the shop almost exclusively

patronized by Blacks and Hispanics. When the owner refuses, Buggin' Out organizes a small boycott which leads to a confrontation. Radio Raheem's ghetto-blasters is smashed by Sal, the owner, and a fight ensues. The police are called and in typical fashion respond by choking Radio Raheem to death. Mookie leads the outraged residents to attack and destroy the pizzeria.

Let's focus first on the main elements or themes which Lee is attempting to explore here. Metaphors abound in the movie. Unintentionally, by projecting Smiley as a stutterer who sells photos of Malcolm and Martin, the film seems to say to us that the legitimate voices of resistance and activism in our communities are frequently held down or denigrated. There's a dialectical tension underscoring the whole film from beginning to end between a hope for interracial peace and nonviolent change vs. the need for group solidarity, empowerment and an advocacy of armed self-defense against racist brutality. This is the reason for Lee's use of Public Enemy's "Fight the Power" and the National Black Anthem, "Lift Every Voice and Sing," at the opening of the film, and the quotations from Malcolm and Martin at the conclusion.

Politics and power are at the heart of the film. We are shown Black men and women who are out of work or marginally employed, living in neighborhoods which are controlled economically by nonblacks. The police treat African Americans with contempt, functioning like an occupying army in enemy territory. One is struck by contemporary parallels to Palestine or perhaps the bantustans of South Africa. To ensure the property, business, and lives of white occupiers, the police make selective examples of nonwhites through the utilization of extreme coercion. Thus Radio Raheem's execution is not accidental, but typical of a larger question of white political domination and Black oppression.

Do the Right Thing also presents the contradictions of Black-white relations by examining the personal ambiguity between the white store owner Sal (Danny Aiello), his two sons, and Mookie. The film graphically depicts the extreme racism of one son who defines Blacks as animals, yet Sal is proud of his establishment and his cordial relationship with most patrons. Mookie initiates the looting of the store after Radio Raheem's death, yet the morning after Sal is prepared to pay his former employee twice what he is owed. The reason that the film strikes a responsive chord here is because race relations are complex, not simplistic. Whites who are profoundly racist frequently can hate an entire group of people yet make exceptions in their relations with individuals. Sal's failure isn't personal, it's political. Buggin' Out doesn't want to marry Sal's daughter, or to force him to sell his pizzeria. He only wants Malcolm's and Martin's pictures on the pizzeria's wall as symbolic of recognizing the heritage and humanity of the patrons. Sal's refusal is fundamentally the refusal of white racism to recognize that human rights go beyond property rights.

A number of confused critics, Black and white, have attacked Lee for making a film which supposedly advocates violence. Journalist Juan Williams complains that the movie lacks "vision" and promotes racial confrontation. If Williams, et al. really lived in the inner city, they'd understand that Lee's film actually understates, if anything, the race and class tensions in contemporary America. *Do the Right Thing* provides a complex and dynamic examination of American racism. ★

CFA's 10th Anniversary



Class Struggle.

Wallace Shawn and Ed Begley, Jr. face off in *Scenes from the Class Struggle in Beverly Hills*, to be screened Aug. 10, 8 p.m., at the Drexel Theatre, 2254 E. Main St. Jacqueline Bisset is also featured in the bawdy comedy. Director Paul Bartel (*Eating Raoul*) will attend this 10th anniversary celebration for the Community Film Association. Call 464-FILM for information.

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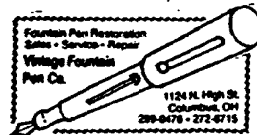
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CALL FOR INFORMATION**HUMANIST LUNCH**, second Saturday, 12:00 noon, Restaurant (Lafayette Dining Room), 3370 Olentangy River Rd. 261-4630.**NATURAL FOODS ASSOCIATES/COLUMBUS CHAPTER**, second Thursday, 7:30-9:30 p.m., Upper Arlington Municipal Building, 3600 Tremont Rd. 261-6264 or 261-8711.**NEW JEWISH ALIENAGE**, phone for time and location. "A Jewish voice in the progressive community, a progressive voice in the Jewish community." 262-9482.**NORTH COLUMBUS FRIENDS MEETING**, Sundays, 10:00-11:15 a.m., 1954 Indianola Ave. 291-2331.**NORTHERN RECYCLING OF COLUMBUS**, 24-hour drop-off of recyclables at their new site, Freedom and Wind Ave., two blocks north of Lane Ave. 84 Keeney Rd. 476-4641. Recycling committee first Tuesday; board meeting, third Tuesday. Phone for time and location. 291-3664 (Bill Finzel).**OHIO SANDEFREEZE** formerly the Nuclear Freeze Campaign, every third Wednesday from 7 p.m. to 9 p.m., 66 East 15th Ave. 299-5874.**O.S.U. GAY AND LESBIAN ALLIANCE**, meetings, phone for times and location. 292-9212.**OHIO WOMEN MARTIAL ARTISTS**, self-defense classes for women and girls (over eight years old). Sundays, 2:00-3:30 p.m., Lakeside Hall, 137 E. 17th Ave., Wednesdays, 8:15-9:45 p.m., Thompson Recreation Center, 1149 Denison Ave. Free introductory class for first time attendees on Wednesdays. 268-6873.**PARENTS AND FRIENDS OF LESBIANS AND GAY MEN**, fourth Wednesday, phone for time and location. 291-1962 (Lachette).**PAX CHRISTI**, last Sunday, 2:30-4:30 p.m., Sisters of Notre Dame convent (historical), 131 E. Rich St. 847-0163.**SISTERS OF LAVENDER**, support group for lesbians 18 and over, Wednesdays, 7:30-9:30 p.m., 1253 N. High St. 279-3241.**SMOKERS ANONYMOUS**, if you are tired of hacking and coughing with breath that smells like an ash tray, join us any Sunday, 11:30 a.m., 17 W. Fifth Ave. So dues or fee. Call Bob, a former smoker, 647-9025.**SOUTHSIDE UNITED NEIGHBORS** board meeting, third Thursday, 7:00 p.m., 1913 S. Ohio Ave. 263-3907.**STONEWALL UNION**, first Thursday, 7:30 p.m., 49 W. Fifth Ave. 291-7241.**WOMEN'S OUTREACH FOR WOMEN** (WOW), drop-in center for women, 52 S. 1st Ave. 291-7241.**WOMEN'S OUTREACH FOR WOMEN** (WOW), drop-in center for women, 52 S. 1st Ave. 291-7241.**WOMEN'S OUTREACH FOR WOMEN** (WOW), drop-in center for women, 52 S. 1st Ave. 291-7241.**WOMEN'S OUTREACH FOR WOMEN** (WOW), drop-in center for women, 52 S. 1st Ave. 291-7241.**WOMEN'S OUTREACH FOR WOMEN** (WOW), drop-in center for women, 52 S. 1st Ave. 291-7241.

Order form

1st Pair

Please send me one pair of _____ \$ _____ Price

size* _____

First colour choice _____

Second colour choice _____

2nd Pair

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
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Payment

I enclose cheque/money order \$ _____ Total Price

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*Please include tracing outline of your feet to ensure accurate fit.

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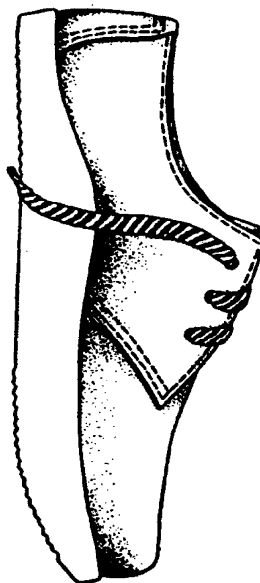
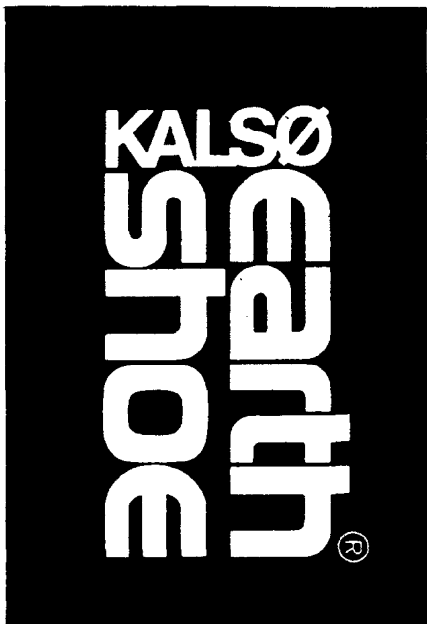


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The Art of Walking



Anne Kalso

The Story: Earth® Shoe

Man has built a world of concrete and steel that is incompatible with his anatomy. We need a shoe that recreates under foot the natural terrain that now lies buried beneath the concrete of our cities. To meet this need, a yoga teacher, Anne Kalso of Copenhagen, invented the Earth negative heel shoe in 1957.

While in pursuit of her life long interest in Yoga, Anne Kalso's studies took her to the great Hindu school of Yesudian in Zurich and later to the Yoga monastery in Santos, Brazil. In the course of her studies and experiments, she observed that by flexing the foot, or by lowering the heel one could achieve a feeling similar to that attained in the lotus position of Yoga.

This awareness inspired her to develop (with the aid of a Brazilian hand shoe maker) a primitive version of a sandal with the heel lower than the toes.

Subsequently, she began to observe the noble carriage of the Indians with their foot imprints in the sand, and it was confirmed to her that when mankind walks in soft earth the weight of the body is sunk low into the heels! Returning to Denmark, she began experimenting further with this principle. For ten years she developed and refined her designs. She tested the new models herself on walking trips of hundreds of miles. Every nuance of their design and structure grew out of her intense concern and care.

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This uniquely contoured sole which has been newly modified by Anne Kalso will allow you to walk in a gentle rolling motion, which helps to develop a more natural, graceful walk. In effect you are walking barefooted on the beach . . . or across a summer field. Earth Brand shoes are a form of exercise, some may find our unique heel seat may take getting use to; so moderate wear is advised in the beginning. There is no reason why you cannot interchange the use of other shoes with the Earth brand shoe.

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(m) sizes 41 - 48 (U.S. 7 - 14)
\$81.00 p.pd



1212 DERBY

Colours: brown, walnut, & natural
(w) sizes 35 - 42 (U.S. 5 - 11)
(m) sizes 41 - 48 (U.S. 7 - 14)
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1211 SPORT

Colours: brown, walnut black, white & bordeaux
(w) sizes 35 - 42 (U.S. 5 - 11)
(m) sizes 41 - 48 (U.S. 7 - 14)
\$110.00 p.pd



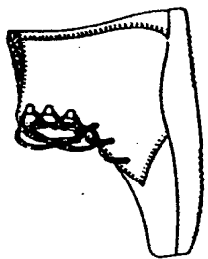
1262 TRAMP

Colours: brown, walnut & bordeaux
(w) sizes 35 - 42 (U.S. 5 - 11)
(m) sizes 41 - 48 (U.S. 7 - 14)
\$130.00 p.pd



1172 FOREST

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(m) sizes 41 - 48 (U.S. 7 - 14)
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"Discover the Beauty of our Handcrafted Foot Wear."

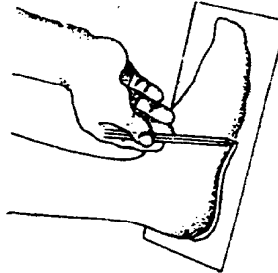
Earth® Shoes are made from the finest of leathers, with all rubber soles. Our shoes are fully guaranteed, and if for any reason you are not totally satisfied, return shoes along with sales slip and all monies will be refunded.

HOW TO TRACE ROUND YOUR FEET

Ordering properly fitting shoes by mail is really quite simple. All you need is a large sheet of paper, a pencil or ball point pen, and a friend to help.

Place the sheet of paper on a hard, flat surface. The floor or a large book on top of the carpet will do.

Wearing only thin socks or stockings, stand erect on the sheet of paper with your feet about 3 inches apart and your weight evenly distributed. Your friend should then trace on the paper the outline of each foot, keeping the pen our pencil in a vertical position and as close as possible to your foot. An accurately traced outline of each foot is all we normally need in order to send you a properly fitting pair of shoes. **Please include your regular U.S. shoe size for reference.**



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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

<p>MEYNARD DESIGNS, INC. AND EARTH, INC.</p> <p>Plaintiffs and Counterclaim-Defendants,</p> <p>v.</p> <p>EARTH PRODUCTS INC.</p> <p>Defendant and Counterclaim-Plaintiff.</p>	<p>Civil No. 1:05-CV-11781 NMG</p> <p>Judge Nathaniel M. Gorton</p>
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Boston Business Journal

January 12-18, 2001 Volume 20, Number 49

<http://www.bizjournals.com/boston>

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INSIDE

REALLY OLD QUARTERS

SEAWALLS



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Seaport area feels
accessibility pinch
This week's supplement

Catching
the sole train

Cashing in on the
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Off the market

Properties get pulled rather than suffer low bids

BY BILL ARCHAMBEAULT
JOURNAL STAFF

The price wasn't right, so Lend Lease Real Estate Investments Inc. pulled off the market its 114,000-square-foot office building at 400 Fifth Ave. in Waltham after three months.

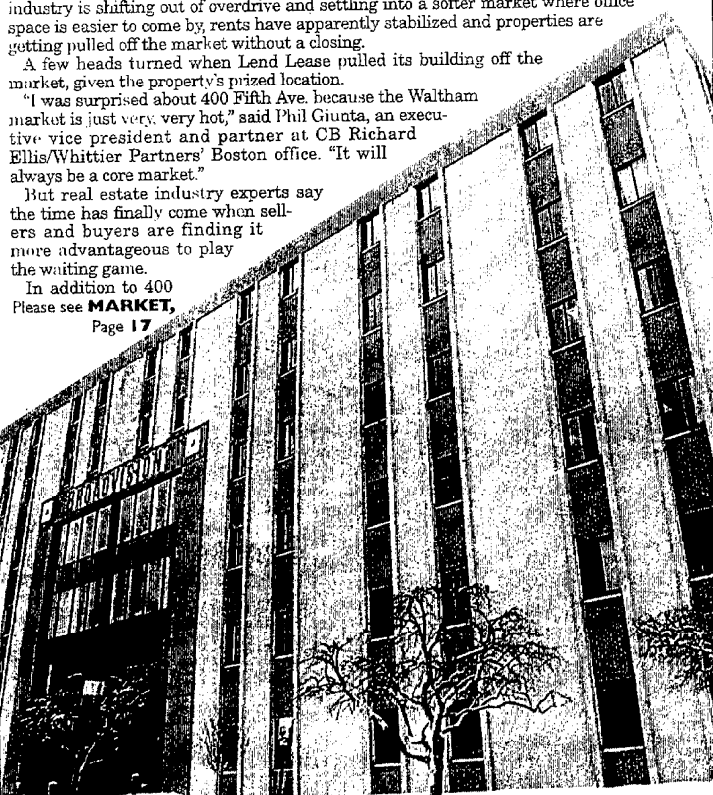
After enjoying a particularly wild ride over the last two years, the local real estate industry is shifting out of overdrive and settling into a softer market where office space is easier to come by, rents have apparently stabilized and properties are getting pulled off the market without a closing.

A few heads turned when Lend Lease pulled its building off the market, given the property's prized location.

"I was surprised about 400 Fifth Ave. because the Waltham market is just very, very hot," said Phil Giunta, an executive vice president and partner at CB Richard Ellis/Whittier Partners' Boston office. "It will always be a core market."

But real estate industry experts say the time has finally come when sellers and buyers are finding it more advantageous to play the waiting game.

In addition to 400
Please see **MARKET**,
Page 17



Lend Lease Real Estate Investments Inc. recently pulled 400 Fifth Ave. in Waltham off the market after three months. Lend Lease plans to list it again in four to six weeks in hopes that the market will improve and bids will increase.

Teradyne diversifies revenue stream with telecom products

BY TOM WITKOWSKI
JOURNAL STAFF

Teradyne Inc., in an effort to provide a hedge against the tumultuous swings of the semiconductor tester market, has been quietly developing a thriving telecommunications connector business.

Last year, Teradyne enjoyed tremendous growth in telecommunications connectors as revenue went from \$388 million in 1999 to a projected \$780 million and accounted for an increasing percentage of the company's earnings, which will be announced next week. Ter-

adyne officials expect that number to grow again in the coming year to \$1.3 billion to \$1.4 billion. The connectors are used by telecommunications companies to connect an increasingly complex array of integrated circuits.

A plant in Dublin, Ireland, doubled in size, as did a Plano, Texas, facility. Teradyne built a new plant on the Northern Ireland border, which added to six facilities in Nashua, N.H., the one in Mexico and the two in San Diego.

"Our big problem in that business is we are
Please see **TERADYNE**, Page 32

State Street's Ahern joins White House transition

BY EDWARD MASON
JOURNAL STAFF

State Street Corp., long powerful in finance circles, has been asked to advise the incoming administration of George W. Bush on money matters.

F. Gregory Ahern, a senior vice president at State Street, recently was drafted to join a Bush transition team subcommittee on finance, which includes heavy hitters from some of the nation's most prominent banks, brokerage and accounting firms.

The selection of Ahern, a 48-year-old responsible for government relations at Boston-based State Street, is widely considered an honor. But it also sheds light on the presidential election and transition processes, from what it takes to get such a plum appointment to what degree of influence a candidate's patrons are afforded.

Or, as some have suggested, at the heart of the matter lies a relatively obscure 4-year-old book on Social Security reform that may have opened the way for Ahern and State Street's ideas to be heard in Washington.

Julenna Glover Weiss, a Bush transition team spokeswoman, said Ahern was picked for his "long-standing understanding and expertise in the financial community."

Ahern, a 1974 graduate of Brown University, has been with State Street since 1994 and, according to Massachusetts Bankers Association president Daniel Forte, is highly regarded for his work in
Please see **AHERN**, Page 32



MARK TETRAULT / BUSINESS JOURNAL

State Street senior vice president F. Gregory Ahern has been invited to join President-elect George W. Bush's transition team's finance subcommittee.

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'70s-style shoe is ready to come back down to earth

BY DONNA L. GOODISON
JOURNAL STAFF

WALTHAM—Bell bottoms, halter tops, platforms—fashions of late have been '70s-inspired, so why not an updated version of the Earth Shoe?

A Waltham footwear design and manufacturing company is bringing back one of the fashion fads of the decade.

But while Meynard Designs Inc. is resurrecting the Earth Shoes' "negative heel" technology, they won't resemble the original line that variously included the Earth Chukka, Earth Lover and Earth Dancer.

It's only coincidence, company officials say, that the reintroduction of the shoes—which will be known as Earth Brand shoes—comes at a time when many in the fashion industry are riding a Brady Bunchesque wave.

The new Earth Brand shoes for men and women, which will retail for \$80 to \$120, won't have the retro look. Instead, they'll be contemporized European-styled oxfords, slip-ons, clogs and boots in 25 styles.

Fashion fads aside, Charlie Liberge, executive vice president of Meynard Designs' Earth Brand Inc. division, believes the launch will be well-timed.

"The overall footwear market is pretty stagnant," Liberge said. "There hasn't been any new technology or innovative technology in the footwear industry, outside of athletics, in a long time. The second thing is the comfort business in footwear is just growing, growing and growing."

Shoe manufacturers are becoming more attuned to marrying style with comfort, creating more anatomically shaped lasts or foot beds, according to Meg Rottman of StylePR, a fashion and lifestyle public relations firm in Los Angeles.

The Earth Brand shoes have the trademarked "negative heel," or a heel that is lower than the raised toe of the shoe.

The original Earth Shoe was designed in 1957 by Copenhagen yoga instructor Anne Kalso, who wanted to mimic how weight is placed on the heel when walking on soft earth.

The shoes originally hit U.S. stores as the Anne Kalso Minus Heel Shoes in 1970 under a licensing agreement held by Raymond and Eleanor Jacobs, who soon changed the name to Earth Shoes in honor of Earth Day.

The shoes left the marketplace in 1977 when the Jacobs' multimillion-dollar company went bankrupt after bank disputes.

Waltham-based Earth Brand purchased all the rights to the former Earth Shoes



PHOTOS BY SANDIE McDADE-ALLEN / BUSINESS JOURNAL

Director of marketing Vern Aisner, at left, and executive vice president Charlie Liberge display one of 25 new styles of Earth Brand shoes that will be introduced next month in Las Vegas.

and negative heel technology seven years ago.

It has designed a "custom-fit system" for the new shoes that includes three removable insoles to fit a person's width size. The company also has added a latex outsole that is guaranteed for life.

"Technology-wise, most companies build their comfort in the insole," Liberge said. "The problem is that insoles change as people wear the shoes. We, literally, have built our comfort in the outsole. The shoes physically feel different to the wearer. It's like when you put on a cashmere sweater."

Earth Brand will spend between \$2 million and \$3 million to launch the shoes at the World Shoe Association trade shoe in Las Vegas next month.

Considered the premier industry event in the United States, the WSA show is attended by approximately 30,000 people, according to WSA executive director Chris Aiken. Approximately 1,200 shoe manufacturers show some 4,500 lines at the show. The shoes are expected to be available to consumers in time for back-to-school season.

"Our first-year goal was originally \$1 million, but it looks like it will be a pretty sizable amount over that," Liberge said.

Earth Brand will target as customers what it calls the I Generation—22- to 30-year-olds who are independent thinkers.

"People who are trendsetters, not trend followers," Liberge said.

It also hopes to lure back former Earth Shoe wearers. "There's actually almost an Earth Shoe cult out there," said Vern Aisner, Earth Brand's director of marketing.

The Earth Brand shoes will be the first upper-end brand marketed by Meynard Designs, a 32-year-old, privately held company whose majority owner is chief executive officer Michel Meynard.

"We have a large base in the lower-end business," Liberge said.

The company has about 75 percent of Wal-Mart Stores Inc.'s footwear sales. It also manufactures the Cherokee brand for Target Corp. and the Thom McAn brand for Meldisco, which operates leased footwear departments in Kmart Corp. stores.



The new Earth Brand shoes will have the same negative heel technology as the old Earth Shoes, but will have an updated, Euro-style look.

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FOR THE DISTRICT OF MASSACHUSETTS

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

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EXHIBIT 25

FILED UNDER SEAL

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

<p>MEYNARD DESIGNS, INC. AND EARTH, INC.</p> <p>Plaintiffs and Counterclaim-Defendants,</p> <p>v.</p> <p>EARTH PRODUCTS INC.</p> <p>Defendant and Counterclaim-Plaintiff.</p>	<p>Civil No. 1:05-CV-11781 NMG</p> <p>Judge Nathaniel M. Gorton</p>
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EXHIBIT 26

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EXHIBIT 27

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EXHIBIT 28

WAL*MART

THE Shopper

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1497

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26-Qt. CoolerCombo**
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and 1-gallon jug
• Hinged lids with integrated
handles
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Disposable Razors**
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Lady Shaver
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948

Laundry Detergent
• 128-oz Double Power Wisk®
Liquid Regular or with Bleach
• 85-use Surt® Powder
• 67-use Surt® Powder with Bleach
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Mixing Available in 3000 Colors

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ONE COAT COVERAGE
SUPERIOR WASHABILITY
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FLAT FINISH
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ONE COAT COVERAGE
SUPER SCOUR® CLEAN
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Neosporin® or Cortizone 10®
• 1/2-oz. Maximum Strength
Neosporin cream or
Neosporin Plus ointment.
Was 3.57
• 1-oz. Cortizone 10 ointment
or Maximum Strength
Cortizone 10 cream. Was 3.88
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• Two packs for the regular price of one
• 50 gelcaps per pack, for a total of 100
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TYLENOL**
Gelcaps
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GET ONE
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100 GELCAPS FOR THE PRICE OF 50

WAL*MART 1

Flashback to

EARTH SHOE

1997

Your Choice
Every Day

Ladies' Earth Shoes

Horizon Fisherman Leather Casuals

Comfort and fit with elastic straps and comfortable padded sock with flexible sole. Available in white or tan nubuck leather.

Breeze Open Toe Nubuck Leather Sandals

Stylish look with nubuck leather upper padded sock and flexible sole.

Oasis Nubuck Leather Sandals

Nubuck leather upper padded sock, flexible sole and elastic cross bands for comfort and better fit.

Terrain Split Leather Adjustable Strap Sandals

Oily split tan leather with adjustable strap and comfortable footbed sock.

MADE IN THE
USA

9⁹⁷
Your Choice
Was 10.97-11.97

River Rapids® Sport Sandals
Neoprene lining and EVA sock for comfort with rubber bottom for durability. Men's, ladies' and big boys' sizes.

12⁹⁷
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Every Day

River Rapids® Sport Sandals
Sturdy nylon straps and rubber bottom for durability. EVA sock and neoprene lining for comfort. Men's, ladies' and big boys' sizes. Youth Boys' sizes, Every Day. . . 11.97

5⁹⁷
Your Choice
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Ladies' Jean Anchor Slip-ons
Fashionable slip-on canvas with easy-care upper. Available in black, white navy or red. Colors may vary by store.

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Ladies' Premiere Collection™ T-Strap
Features faile T-strap ankle wrap, adjustable ankle straps, contrasting gold padded sock and flexible outsole.

29⁹⁷
Every Day

Men's Duxbak® Leather Boat Oxfords
Full-grain quality leather with rugged rubber outsole for durability and comfortable leather footbed.

Duxbak®

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EV033143
05cv11781

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

<p>MEYNARD DESIGNS, INC. AND EARTH, INC.</p> <p>Plaintiffs and Counterclaim-Defendants,</p> <p>v.</p> <p>EARTH PRODUCTS INC.</p> <p>Defendant and Counterclaim-Plaintiff.</p>	<p>Civil No. 1:05-CV-11781 NMG</p> <p>Judge Nathaniel M. Gorton</p>
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EXHIBIT 30

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EXHIBIT 31

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EXHIBIT 32

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EXHIBIT 33

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EXHIBIT 34

FILED UNDER SEAL

EXHIBIT 35

UNITED STATES OF AMERICA

ASSIGNMENT

WHEREAS, ANNE S.J. KALSO, a citizen of Denmark, whose address is Bredgade 10, Copenhagen K, Denmark DK1260, has adopted and used the trademarks shown on attached Schedule "A", which are the subjects of registrations and/or applications in the United States Patent and Trademark Office;

AND WHEREAS, TONUS INC., a corporation of the State of New York located and doing business at 50 Glendale Road, Ossining, New York 10562 is desirous of acquiring said trademarks, past common law causes of action and the registrations and/or applications thereof;

NOW THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, said ANNE S.J. KALSO does hereby assign unto the said TONUS INC. all rights, title and interest in and to the said trademarks, together with the goodwill of the business symbolized by the marks and the past common law causes of action, and the registrations and/or applications thereof.



Anne S.J. Kalso

Dated at Copenhagen, Denmark
this 19th day of June, 1985.

US/AS/2285

UNITED STATES OF AMERICAASSIGNMENT

WHEREAS, ANNE S.J. KALSO, a citizen of Denmark, whose address is Bredgade 10, Copenhagen K, Denmark DK1260, has adopted and used the trademarks shown on attached Schedule "A", which are the subjects of registrations and/or applications in the United States Patent and Trademark Office;

AND WHEREAS, TONUS INC., a corporation of the State of New York located and doing business at 50 Glendale Road, Ossining, New York 10562 is desirous of acquiring said trademarks, past common law causes of action and the registrations and/or applications thereof;

NOW THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, said ANNE S.J. KALSO does hereby assign unto the said TONUS INC. all rights, title and interest in and to the said trademarks, together with the goodwill of the business symbolized by the marks and the past common law causes of action, and the registrations and/or applications thereof.

REEL 0502 FRAME 51

Anne Kalso
 Anne S.J. Kalso

Dated at TRADE-MARK
Copenhagen, Denmark

this 19th day of June, 1985.

SCHEDULE "A"REGISTRATIONS

<u>Trademark</u>	<u>Reg. No.</u>	<u>Reg. Date</u>
ANNE KALSO EARTH SHOE	1,294,415	9/11/84
KALSO EARTH SHOE	1,313,517	1/8/85

APPLICATIONS

<u>Trademark</u>	<u>App. No.</u>	<u>App. Date</u>
EARTH	538,529	5/20/85
EARTH SHOE	538,528	5/20/85

ACTING COMMISSIONER OF
PATENTS & TRADEMARKS

MIC - 1 1985

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REEL 0502 FRAMED 52

TRADE-MARK

M0827

EXHIBIT 36

FOR IMMEDIATE RELEASE

CONTACT: Jeanne Wallace
978 463 9626
jeannewallace@comcast.net

SPRING 2004 AND EARTH IS LIGHT AND EASY

WALTHAM, Mass. (July 31, 2003) – Spring is here and the living is easy with the Earth Brand's latest evolution of the Earth Shoe featuring independent styles with a lighter, sleeker look. The Earth Spring 2004 Collection unveiled at the World Shoe Association (WSA) Show in Las Vegas, July 31 through August 3.

The authentic Earth Shoe brand, an icon of the Seventies, disappeared from the marketplace for almost 30 years until its comeback in 2001. Earth's exceptional comfort comes from its innovative *Negative Heel Technology*, which allows the heel to rest below the toes to naturally align the body and encourage better posture and proper breathing patterns. Originally created by Danish yoga master Anne Kalso, today's Earth Footwear designs are contemporary and stylish, but still have the same *Negative Heel Technology*, only available from Earth Footwear.

Michel Meynard, president of Meynard Designs, Inc., is a leader in the footwear industry who rediscovered Earth after years of searching for a unique brand. Meynard says the Spring 2004 line "brings a fresh, contemporary approach to authentic Earth." Meynard believes both new and former wearers will be happily inspired by Earth's new offerings.

EARTH'S SPRING 2004 COLLECTION

Spring 2004 features an overall softness throughout the line – in ultrasoft suedes, supple leathers and natural fabrics, as well as innovative padding and adjustability features: Earth is the perfect fit. Colors are clean and light, with washed out denims in red, blue and khaki; multi-color printed fabrics; plain calfskins in vibrant yellow, red, blue and green; and suedes in both mellow and bright colors. Femininity graces the Women's collection, with distinctive Earth signature detailing, like flower embroidery, gemstones, frayed edges, contrast stitching, copper buckles and eyelets. The Men's collection offers a variety of shoes and sandals with a rich, casual sophistication and sport styling.

"Earth's Spring 2004 line is functional, versatile, and easy-to-wear," Vern Aisner, director of marketing, said. "With a greater selection of styles and distinctive colors, wearing Earth is a return to simplicity in an ever complex world. Today's Earth Shoes invigorate, they look great on the feet, and there's nothing similar to the way they feel...you have to try them on!"

WOMENS COLLECTION:

Spring 2004 brings Earth's version of a Mardi Gras party, with ornamented and festive sandals and slides. **Spice** is nice in washed-out, frayed denim with aquamarine gemstones on a double-strap sandal with pewter closings. **Mambo** takes a classic two-strap sandal and lightens it in white with gemstone ornamentation. **Samba** is hot, hot, hot, with striped fabrication in either creamy white and bright pinks, or rich sunset tones. Samba shines with appliqued silk flowers and embroidery with gold trim. **Sunrise** is a classic, leather strappy sandal meant for wearing and dancing all day and night long. The **Fiesta** thong is touched with metallic stars and leather wrapped stitching in colors like alpaca, azur-navy and biscuit.

MORE

Nouveau Mod is **Pearl**, an embroidered clog in washed-out denim or suede. **Unity**, brings a little "Peace on Earth" with its global peace symbol set in washed out and frayed denim. **Daytona 2** is an updated look to a best seller. In soft eclipse leather with braiding and copper O-rings, Daytona 2 is as classic as it gets for hip style and comfort. For jazzed-up color and fun meet the adventure-seeking **Dreamer**, Earth's high style sneaker look in brown, Baltic blue, mustard and red.

PRACTICAL MATTERS

Simple yet ever so feminine, are sweet **Juliet**, Earth's first ever sling-back; the hugely popular **Solar**; and the best-selling, optimum in comfort, double strap **Kharma**. Sandals like **Ruby** feature Earth's signature copper closings and an enclosed heel, and **Sassy** has a refined leather braiding. **Delight** combines leather weaving with pure comfort and is offered in ever-so-wearable colors like black, brown, camel and rosso. **Athena**, a Grecian leather sandal with soft ankle laces, brings a casual style with modern sophistication to the Collection. Adjustability and comfort is key in each of these offerings. These are the shoes to wear everywhere and anywhere.

Earth offers the best in slip-on and slide-off shoes with **Shadow**; **Daisy**, a slip-on Mary Jane; the best selling **Lotus** clog; and **Heartland**, with signature copper closures. **Magnetism 2**, the real simple "hostess with the mostess" is available in 10 colors: camouflage desert storm, black, ochre rosso and copper kettle (in eclipse leather) and clear brights like desert, jazzy red, khaki, sea blue and sun (in buttery soft suedes). Sport inspired sandal **Melissa 2** offers practicality and adjustability. Strappy **Oasis** comes in fashion favorite colors like rosso, camel, brown and black. **Imagine** rounds out the sandal collection in creamy-soft sandstone leather, in the simplest three-strap, ultra-comfort styling. The hip looking return of the **Aurora** lace-up will be offered in white, a thoroughly modern camouflage print, and ochre. All feature exceptionally supple leathers for added comfort and Earth's signature copper closures. All women's shoes have exceptional price points ranging from \$79 to \$99 at retail.

MENS COLLECTION:

Sport meets sophistication in Earth's Spring 2004 Collection for Men, with exceptional handcrafted quality throughout the line. The supple and comfortable **Tao** clog is as perfect for to and from yoga as it is for a night out. Earth's best selling **Orion** lace-up, is now offered in washed-out denim, camouflage, and classic colors like black, brown, ochre and white. **Scorpion** features a Velcro closing strap system, in washed-out denim, as well as black and brown leathers.

Performance sandal **Navigator** comes in eclipse leather in black and sandstone, with three sure-fitting Velcro adjustable straps. Taking one right to Old Havana are two men's classics in rich, supple leathers: the updated fisherman's sandal, **Vista**, in ochre, black and sandstone; and the hand-stitched leather slip on, **Haven**, in ochre and black. Looking for a more updated '60s attitude? Try **River**, in soft eclipse and old stone leathers. The relaxed **Forest** is a classic two-strap sandal of the utmost simplicity, featuring signature Earth copper peg closures, in black, ochre, sandstone and copper kettle.

Find Survivor styling in adventurous sandals like, **Wilderness**, with copper peg closings; **Congo** and **Jungle 2**, with leather braiding and copper O-rings and rivets to make any wild travels light, easy and exceptionally good. All men's shoes range in price from \$99 to \$109.

Earth Footwear, a division of Meynard Designs, Inc., is based in Waltham, Massachusetts. For more, please visit our website at: www.earth.us

#

Earth® is a division of Meynard Designs, Inc., designer and maker of exceptional footwear for over 33 years. Earth® Brand, Earth Shoe®, Anne KALSO® and Gelron 2000® are registered trademarks of Meynard Designs, Inc. Negative Heel™ Technology, there's nothing like it™ are trademarks of Meynard Designs, Inc. (C) 2003 MDI.

EXHIBIT 37



FOR IMMEDIATE RELEASE

CONTACT: Jeanne Wallace
Jeanne Wallace PR & Marketing
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EARTH FOOTWEAR UNVEILS THE EARTH CLASSIC COLLECTION
Original Look From the Seventies
The Ultimate Mix of Old and New

LAS VEGAS (February 10, 2002) – No longer just a phenomenon of the Seventies, Earth Footwear today unveils The **Earth Classic Collection** at the World Shoe Association trade show at the Sands Expo Center in Las Vegas, Nevada, February 10-12, 2002. The **Earth Classic Collection** triumphs the company's successful re-launch of the Earth Brand of footwear just one year ago and is the ultimate mix of old and new.

Demanded by Earth 'followers' – former wearers of Earth Shoes 25 years ago – and embraced by new "Gen I" consumers, hip to the comfort and individual appeal of the footwear's styling, the Earth Brand made a dramatic comeback statement in 2001.

"Last year our mission was to successfully re-launch Earth Footwear to the marketplace in an updated, style-driven way," Charlie Liberge, Executive Vice President at Earth, said. "Today, we are celebrating with the launch of The **Earth Classic Collection** – an inspirational mix of both worlds."

At a time when most American's think comfort is the most important aspect of their wardrobe, Earth Footwear appears to be a perfect fit, not only based on style trends, but on a growing awareness of well-being.

MORE

EARTH FOOTWEAR UNVEILS THE EARTH CLASSIC COLLECTION/PAGE 2

"The Earth look is purely original but the inspiration is truly about a sensitivity to a new world," Liberge explained. "Today's consumer is being driven by three major trends in the marketplace -- comfort, yoga and retro. The Earth Brand combines these trends to provide retailers an opportunity to maximize consumer demand."

Since its launch last Fall, Earth has found that consumers are buying multiple pairs of the Earth Brand, perhaps one of the reasons the company recently was honored with the "Brand of the Year Award" by Shoes On The Net.com, the leading footwear portal on the internet.

"Customers are demanding Earth's unique comfort and style to compliment every aspect of their wardrobe," Vern Aisner, Director of Marketing, explained. "Given this, we've expanded the Earth line to include more than 30 styles divided into four lifestyle collections."

The Earth Classic Collection

The Earth Classic Collection features the best of Earth's original styles from the 1970s and today, in a lighter, and more contemporary way.

"The Earth Classic Collection is our version of the return of the Volkswagen Bug," Aisner said. "The look is purely original, the technology is updated, and the end result is an entirely different experience. We cannot wait for the reaction."

MORE

EARTH FOOTWEAR UNVEILS THE EARTH CLASSIC COLLECTION/PAGE 3

In addition to The Earth Classic Collection, Earth Footwear is launching three other lifestyle collections strong on comfort and fashion-inspired looks. They include:

Metro Collection:	In and out of the office, uptown, downtown styling
Airborne Collection:	A hip, new look featuring a rugged lug sole design, ideal for the younger set
Beachcomber Collection:	Ultra-casual, freestyle collection with athletic inspiration

Fall/Winter 2002 for Earth Footwear represents a total of 31 styles for women and 23 styles for men. All range in retail price from \$99 to \$159 a pair. Earth Footwear is available globally, sold only in better footwear and specialty stores. Store locations can be found by visiting www.earthfootwear.com. On-line shopping for complete lines of Earth Footwear include:

www.pedestrianshops.com

www.pegasusshoes.com

www.planetshoes.com

www.shoedini.com

Retailers carrying Earth Footwear should be happy with the company's new success as well. Recent press coverage ranging from *The New York Times*, *The New York Post*, *Sports Illustrated for Women* and even *Entertainment Weekly*, applaud the comeback of Earth and embrace the new stylized look while maintaining a one-of-a-kind comfort feature.

MORE

EARTH FOOTWEAR UNVEILS THE EARTH CLASSIC COLLECTION/PAGE 4

The Earth Legacy

The Original Earth Negative Heel Technology™ was developed by Anne Kalso®, a yoga instructor from Denmark, more than 30 year's ago. Kalso's design, which brings the foot as close to walking naturally barefoot as possible, created a marketplace phenomenon in the 1970s. The original shoe featured Negative Heel Technology but did not have the styling of the new footwear collection. Following a 25-year hiatus of the shoe, Earth Footwear, under new management, was re-launched and redesigned in 2000, with the first Earth Footwear collection available to consumers in the Fall of 2001. Earth delivers its superior comfort and fit through unique product features:

Original Negative Heel Technology™ - naturally aligns the body
Comfort Fit System™ - foot-beds that mold to the shape of the foot
Comfort Sphere™ - allows the foot to spread and relax naturally
Comfort Outsole™ - natural latex rubber for comfort and durability

Earth Footwear, a division of Meynard Designs, Inc., is based in Waltham, Massachusetts. For more information, visit us at www.earthfootwear.com.

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Earth® is a division of Meynard Designs, Inc., designer and maker of exception footwear for over 32 years. Earth® Brand Earth Shoe® and Anne Kalso® are registered trademarks of Meynard Designs, Inc. Negative Heel Technology™, Total Body Comfort™, Comfort Sole™, Comfort Sphere™, Comfort Fit System™ and Box-stitch Design™ are trademarks of Meynard Designs, Inc.

EXHIBIT 38

FOR IMMEDIATE RELEASE

CONTACT: Jeanne Wallace
978 463 9626
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EARTH GOES VEGAN
First-Ever Earth Vegan Shoes Certified By The Vegan Society

WALTHAM, Mass. (January 20, 2004) -- Stylish, comfortable, healthy and now Vegan, Earth introduces its first-ever Vegan Collection of shoes and boots, certified by The Vegan Society.

Sharing a respect for life on Earth by manufacturing Earth Vegan, the Earth Vegan Collection is made of the highest-quality man-made breathable materials without the use of any animal products or by-products. The Collection meets the strict quality standards of The Vegan Society, the world's first and foremost organization dedicated to vegan lifestyles.

"Since our relaunch just two short years ago, consumers and retailers have been requesting Earth Vegan shoes," Vern Aisner, director of marketing, said. Vegan is an important market, and we are proud to offer stylish and comfortable shoes for the Vegan lifestyle."

The Earth Shoe Brand, an icon of the Seventies for comfort, health and individuality, disappeared from the marketplace for almost 30 years until its current comeback in 2001. With unique styling and renowned craftsmanship, the Earth Vegan Shoe features the exceptional comfort from Earth's one-of-a-kind Negative Heel Technology, which positions the heel below the toes providing natural posture/body alignment. Originally created by Danish yoga master Anne Kalso, today's Earth Shoes are authentically true to their roots, but with contemporary styling and materials, including Vegan. Only Earth footwear promotes a natural way of walking, and is being discovered again, by former wearers as well as for the first time by health conscious consumers of all ages.

Earth 2004 Vegan Collection Highlights

The Vegan Collection from Earth includes Women's and Men's styles that are invigorating for the mind, body and sole.

"Similar to exercising, or the Mountain Pose in yoga, wearing Earth is a natural, healthy and invigorating process," Aisner explained. "We recommend moderate wear at first to allow one's body to adjust to this more natural walking experience."

Taking you anywhere you want to go – from office to the organic market, or simply weekend wear – Women will find classic Earth styles like **Kharma**, a very stylish clog; the **Shirley** two-strap; top-selling classic **Solar**; **Breeze 2** and **Venus**. Vegan Boots for Women include **Gidget**, in bright yellow, red, black and white Patent, and the very striped and stylish **Cadet**, also in Patent in black, red and white. The Men's Collection features classic lace-up styles **Aspen 2**, **Orion 2** and **Genius**. Earth's Vegan Collection is offered in today's highest-quality, breathable, animal-friendly materials, and range in retail price from \$89 to \$109. Earth Vegan is sold in fine retail and natural health stores throughout the world. Visit www.earth.us, or call our toll-free number at 877-746-3364, for a complete listing.

Earth Shoes. They're back. Visit www.earth.us for more.

MORE

The Vegan Society, the world's first, was founded in 1944. Today, the Society remains as determined as ever to promote vegan lifestyles – ways of living that seek to exclude, as far as is possible and practical, all forms of exploitation of animals for food, clothing or any other purpose. For more, visit www.vegansociety.com.

#

Earth, a division of Meynard Designs, Inc., is based in Waltham, Massachusetts. For more, please visit our website at: www.earth.us.

Earth® is a division of Meynard Designs, Inc., designer and maker of exceptional footwear for over 33 years. Earth® Brand, Earth Shoe®, ANNE KALSO® Gelron 2000® and Negative Heel™ Technology are trademarks of Meynard Designs, Inc. (C) 2004 MDI.

Earth. Made on the Third Planet from the Sun.

EXHIBIT 39

THE NEW YORK TIMES -
NATIONAL EDITION

New York, NY

Sunday Circulation - 1,698,288

NATIONAL EDITION

NOVEMBER 17, 2002



Bacon's

UPDATE

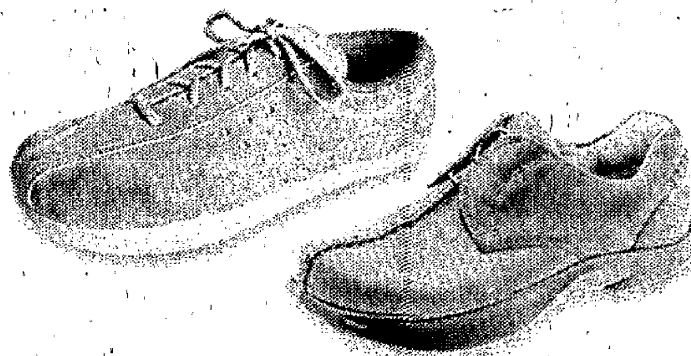
MICHEL MEYNARD

Resurrecting A Symbol Of Comfort

REMEMBER the Earth Shoe? Like many things retro, those "minus" or "negative-heeled" shoes, a hippie staple of the 1960's and 1970's, are making a comeback, thanks to Michel Meynard, a shoe designer and manufacturer.

Anne Kalso, a Danish yoga instructor, designed the original Earth Shoe. While studying at a monastery in Santos, Brazil, she noticed the straight posture of the Brazilian Indians, who stood in the sand with their heels lower than their toes. Ms. Kalso spent more than 10 years designing the distinctive shoe style intended to improve posture and comfort. Her design became known in the United States as the Earth Shoe, and the name stuck. Earth Shoes quickly earned loyal fans around the world, then disappeared in the late 1970's.

Fast forward to 1991. Mr. Meynard, now 62, was traveling through



One of the original Earth Shoes, left, circa 1976, and a new design introduced last year.

Europe with his son when they spotted a Levi's billboard with a model wearing a vintage pair of Earth Shoes. "It was a name that I was always fascinated with," Mr. Meynard said. "It gave us the idea of looking for the brand, so we started digging."

They found that, after struggling through a nasty legal battle with retailers over supply, the company split up in 1977 and that Ms. Kalso had died.

After spending years tracking down the five people who still owned the brand, Meynard Designs, based in Waltham, Mass., bought the rights for \$250,000. "The brand had been out of the marketplace for 15 years, totally abandoned, so we got it for very little," said Mr. Meynard, who re-introduced the shoes in fall 2001. "Now it is doing very well. I expect

Earth Shoes to be a \$100 million company in the next five years." The average price for a pair is \$100.

The shoes, which use the original patented Kalso Negative Heel Technology, are now available in 32 styles with names like Energy for a fringed thong sandal and Lotus for a clog with a buckle, and in colors like deer, khaki and lime. "We're trying to make them comfortable and casual, but also fashionable," said Mr. Meynard, who has even worn the shoes jogging.

Earth Shoes can be found in more than 500 stores and catalogs, including Nordstrom, Overland Trading and J. Jill. "There is something unique and different about Earth Shoes," Mr. Meynard said. "They are an experience. People have always been intrigued by them."

JULIE DUNN

EV026383

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EXHIBIT 40

Back to Earth

COMFORT

After a quarter of a century, Earth Brand shoes are reintroduced to a new millennium market.



After a year when luxury labels ruled, earthy comfort is waging a small comeback with the re-emergence of the Earth shoe, a 1970s phenomenon.

Introduced in the United States 30 years ago, the comfort-based collection is staging a revival under the Earth Brand label, a division of Meynard Designs, Waltham, Mass.

Seven years ago, Meynard acquired the names Earth and Earth Shoes along with original designs developed by Earth shoes' creator, Dutch yoga instructor Anne Kalso. In their heyday, the shoes developed a cult following because of their unique design that eventually was awarded a U.S. patent. The originals are currently on display at the Costume Institute of the Metropolitan Museum of Art in New York.

According to Earth Brand's Web site, earth footwear.com, the shoes initially were distributed in the United States by Raymond and Eleanor Jacobs, who opened a store in New York to sell the brand. Inspired by the crowds gathered near their 14th Street store on the first-ever Earth Day, the couple decided, appropriately, to name the line Earth shoes.

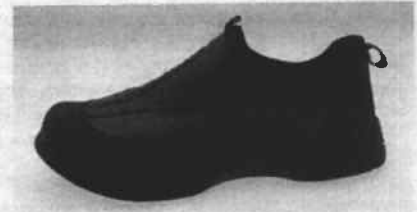
Then, as now, the concept behind the collection is to "walk from a new angle," explained Charlie Liberge, executive vice president of Earth Brand. The negative-heel design, which mimics the effect of walking in the sand, follows the natural motions of the foot, taking pressure off the front of the foot while forcing the calf muscles to work harder.

The new line of casuals and dress-casuals for men and women will include comfort features such as padded insoles and Laytex soles with Euro-influenced toe shapes, Liberge explained.

"It's not your father's Earth shoe," he said. "We're taking the technology everyone loved and modernizing it." Other design updates include a double insole system to accommodate a range of widths in full and half sizes.

The new owners of the Earth shoe franchise are targeting what Liberge refers to as the "Generation 'T' customers" — independent thinkers and trend creators.

"They're people who don't like a lot of flash. They don't want to be advertised to. They want to find [the trend] alone."



The reintroduced Earth Brand still offers the negative-heel design.

Where the Earth shoe fits naturally



In the '70s, the company was a regular advertiser in Time magazine.

The brand's niche market is the 25- to 35-year-old, Liberge continued, adding that the company expects the line to appeal to an even older consumer. "The name is so strong in this [age group], people will hear the technology is back and they will find us."

There's already a buzz around the brand, said Liberge, referring to e-mails the company has received via its Web site. "People have found us

from all over the country and all walks of life."

Marketing initiatives for the line will focus on its lifestyle and comfort aspects instead of strictly its fashion past, according to Rob Stewart and Marty McDonald, co-creative directors for Holland Mark Advertising, Boston, the firm that was hired to promote the brand.

"If we try to sell it in a retro way, we're relying on a trend," McDonald explained. "There's so much more to [the brand]. It's key that we reach the 'T' Generation for it to have lasting effects."

While promotional efforts for Earth Brand have not been finalized, the line's initial distribution will be targeted at major cities on both coasts, including New York, Boston and Los Angeles. Set for a June delivery, the shoes will retail from \$80 to \$120 and include oxfords, clogs and boots in a range of colors, materials and styles. Earth Brand will be targeted at better department stores, comfort chains and independents.

While Meynard has been producing private-label footwear for more than 30 years, Earth Brand is his first foray into the branded business.



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FAST FORWARD

"In retail today, it's obvious that branded people are getting the bulk of the business," Liberge said. "To expand the company, we had to develop a brand."

In addition to the new line, Meynard produces an exclusive program of Earth Shoes for Wal-Mart, although the line of casuals does not feature the negative heels.

Footwear is just one of the categories Earth Brand will be offering down the road. The company is currently seeking licensees for bags, watches, backpacks and umbrellas. The Earth Brand shoes will debut at the upcoming WSA Show in Las Vegas. — Barbara Schneider-Levy

When the Earth shoe craze ended in the late 1970s, Arthur Fine, who then owned a Kalso Earth Shoe store in State College, Pa., was left with about 300 pairs in his stockroom. He eventually forgot about them.

However, late last year, the shoes were discovered by Fine's then 13-year-old son, who predicted their "weird design" would probably sell on eBay, the popular auction site. The two quickly got to work photographing the collection, then listing them on the site. To date, about 150 pairs have been sold, with one buyer commenting that he still had his original pair that now were held together with duct tape.

Fine said he was one of the exclusive distributors of the brand during the 1970s, carrying strictly Earth shoes. The quirky design quickly caught on, and the shoes turned into a mainstream trend. Even comedian/actor Orson Bean appeared on *The Tonight Show* wearing the brand, and host Johnny Carson asked him about his unusual shoes.

According to Fine, an American couple, Raymond and Eleanor Jacobs, discovered the brand while vacationing in Europe. Eleanor, who suffered from back pain, was told about a woman named Anne Kalso who had created the comfortable footwear line named Earth shoes. After purchasing a pair of the shoes, Eleanor was quickly relieved of her pain. The Jacobs then approached Kalso about distributing the brand in the United States. Fine said Kalso had many offers over the years to distribute her unique line of shoes. However, in the spirit of the times, she connected with the Jacobs on a spiritual as well as business level and gave the two the go-ahead to bring the line to this country, where retailers like Fine quickly began ordering them.

Today, Fine still is in the shoe business, and has evolved his original Earth shoe unit into a trio of stores located in Penn State's hometown of State College: Barefoot, a men's and women's shoe store; Metro, a junior specialty store carrying footwear; and A. J. Fine, an apparel and comfort-footwear store. — B.S.L.



Original Earth shoe from the collection of Art Fine.

FN photo (left) by THOMAS UNIMACONE

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EXHIBIT 41

Get down-to-Earth

'70s footwear plods its way back to store shelves

By MARY CHALLENGER

REGISTER STAFF WRITER

That '70s decade, you might say, is rearing its ugly head again. First, Hunter S. Thompson made a comeback.

Then war. Now Earth Brand shoes are experiencing a resurgence.

The clunky, snowshoe-shaped shoes, with the wide toes and sunken heels, are back on Iowa store shelves after a hiatus of some 25 years.

They're drawing the notice of both the Doc Martens crowd and Rockport tennis shoe fans.

"They have a very Bohemian sort of style, a kind of interesting look and feel," says Dan Forrester, assistant manager of Tradehome Shoes in Ames. He's an Earth shoes novice, like most of his

customers.

Younger people are attracted to the shoes (which shouldn't be confused with the Wal-Mart brand of the same name) because they fit perfectly with the whole vintage/retro trend, he said. For older customers, the sight of them sometimes inspires a fit of nostalgia.

"They'll say, 'Those are back? Crazy. I remember my pair of Earth shoes back in the day,'" Forrester said.

Today's Earth shoes are more stylish than their seam-down-the-front forebears. Now clogs, sandals, slip-ons and boot varieties are available, and leather instead of tan suede is the material of choice.

They're also far more expensive, selling for about \$100 a pair.

Earth shoes haven't scrapped their claim to fame — the "negative-heel technology" pioneered by Danish yoga instructor Anne

WHERE TO BUY EARTH BRAND SHOES

Brown's Shoe Fit	(319) 385-2931	Mount Pleasant
Brown's Shoe Fit	(641) 423-4144	Mason City
Brown's Shoe Fit	(515) 955-8200	Fort Dodge
Lorenz Boot Shop	(319) 339-1053	Iowa City
Thompson Shoes	(563) 927-2179	Manchester
Tradehome Shoes	(515) 232-5742	Ames
Tradehome Shoes	(515) 253-3974	Merle Hay Mall, Des Moines
Tradehome Shoes	(319) 339-1819	Coral Ridge Mall, Coralville
Younggren's Shoes	(319) 524-3071	Keokuk

Kalso.

The design, intended to mimic walking in sand, places the heel about one-quarter inch below the toes. This stretches the back of the leg in a way some people describe as gentle and relaxing and others describe as painful — at least initially.

"They kind of stretch out the calf muscles the first time you wear them," Forrester said.

"They can make you a little sore in your calves and buttocks. They kind of force you to have good posture and force you to hold your shoulders upright in the way everyone is supposed to stand, but no one does."

The original Earth shoes debuted in the United States on April 1, 1970 — the first Earth Day — and were an instant hit. By 1975, there were more than 100 Earth stores in the United States, but supply problems and competitors selling cheap imitations forced the company to stop production a few years later.

The unusual shoes, part of the permanent collection at the Metropolitan Museum of Art, were never forgotten, as their brisk trade on eBay proves.

They were finally brought back to life by Michel Meynard, the head of a Massachusetts shoe manufacturing company. He was inspired by a pair of Earth shoes he spotted in a vintage Levi's ad.

Original sales goals for the new "Earth Footwear" company were \$1 million, but the shoes caught the wave of three trends — comfort, yoga and the retro look — and achieved double that.

Earth shoes are here to stay for awhile. Tracy Bessey, owner of Thompson Shoes in Manchester, said he just returned from a market exhibition in Minneapolis, and more styles are on the way for fall.

At 44, Bessey said he's old enough to remember the first go-round for Earth shoes, which is what intrigued him to carry them.

As to their attractiveness, perhaps beauty doesn't rest in the eye of the beholder, but in the sole. Earth shoes should be taken for what they are, Bessey said, "functional comfort footwear."

"They're not beauty queens, but we have people pick them up off the display and look at them," he said. "They're not butt-ugly."

Reporter Mary Challenger can be reached at (515) 284-9470 or mchallender@dmreg.com

WARREN TAYLOR/REGISTER PHOTO ILLUSTRATION

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EXHIBIT 42

The clunky Earth shoe gets a redesign

Retailer says buyers are snapping them up again

By MONICA OROSZ
DAILY MAIL STAFF

These aren't the Earth brand shoes you remember from the 1970s. Oh, sure, they'll bring back all the nostalgic feelings of those square-toed, funky things you bought because they were supposed to be good for your feet and your back even if it did take some adjustment wearing shoes that leaned back instead of forward.

Earth shoes are back, but they blend yesterday's nostalgia with today's technology. And baby



Left, Earth shoes from the 1970s. Right, Earth shoes today.

boomers are snapping them up at about \$100 a pair, apparently believing it money well spent for the sweet memories and the chance the shoes will help their aging feet. But teens are just as likely to buy them, says



CHIP ELLIS/DAILY MAIL

Dale Haynes, shoe buyer for the Charleston Department Store, which can barely keep them in stock.

These new Earth shoes have the same "negative heel technology" that made them famous. The heel is positioned about a quarter-inch lower than the toes, supposedly to mimic the feeling of bare feet walking in the sand.

The new Earth shoes still are unusual looking — but in a good way, of course.

"They're certainly unique," Haynes said. "When I first looked at them, I said to my assistant, 'I don't know if we can sell these crazy things.' We visited them once at market and then we visited them again."

His tentative first purchases paid off big time, Haynes said. "We have one called 'Melissa' for ladies that we can't keep in stock," he said. "I'm sitting here with the Earth catalog in front of me, getting ready to buy more shoes for fall."

"We're fired up," Haynes said the redesigned

Earth shoes eliminate some of the clunkiness of the 70s version, with sleeker toe boxes.

But even better, he said, is what goes on inside the shoe.

"They've taken today's technology and applied it. They have the cushioning inside of a Rockport or a Mephisto, and they have a really nice arch," he said.

No question the look isn't for everyone, he said. But they'll appeal to the same kinds of people who have snapped up the decidedly unsexy Birkenstocks for years.

Vern Aisner, a spokesman for Earth footwear, said he believes the shoe appeals to the consumer's search for comfort in all aspects of life, from shoes to clothing to furniture.

And just as the reintroduced Volkswagen Beetle was a much-improved version of the original ("It actually has heat," he said), the new Earth shoe comes with contemporary improvements.

"The technology is light years different," Aisner said.

Writer Monica Orosz can be reached at 348-4813 or by e-mail at monica@daily Mail.com.

EXHIBIT 43

SPRING 2002

Forbes the good life™ FYI



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CAN THE AFRO BE FAR BEHIND?

Warning: The following news may prompt an acid flashback. The Earth Shoe has returned. You might remember the original from the 1970s: an odd, square-toed, lace-up number, with a "negative" or "minus" heel. Launched (not long after our nation's first oil crisis) on the very first Earth Day, the shoe was designed by a Danish yoga master and was intended to facilitate a relaxed posture that opens the chest and permits deeper, healthier breathing. The new Earth Shoe is available for men and women in myriad groovy colors and styles. *Pictured: The Cheetah, about \$100. Available at Nordstrom. For additional store locations, visit www.earthfootwear.com or call (877) 746-3364.*

Photographs by Ron Reeves

EXHIBIT 44

Los Angeles Times

On The Internet: WWW.LATIMES.COM

TUESDAY, JULY 2, 2002

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Sole Survivor

Redesigned Earth Shoe is making strides in niche market

Fashion Notes

By VALLI HERMAN-COHEN
TIMES STAFF WRITER

Fashion's retro infatuation has become a long-lasting love affair. The latest relic to resurface is the Earth Shoe, that funny-looking, sunken-heeled phenomenon of the 1970s.

The brand was relaunched for the fall 2001 season, after a 25-year hiatus, but without the iconic styles that made them famous. After customers clamored for the authentic looks, the Earth footwear company decided to reissue similar styles this fall.

"People were yelling at us—'How could you do this and not bring back the original designs?'" said Executive Vice President Charles Liberge. "People were sending us pictures of their original '70s shoes and asking us for copies."

The shoes aren't exact replicas, but are modernized versions of the stiff, original design by Danish yoga teacher Anne Kalso. New styles borrow materials and technology from athletic shoes and include an innovative solution to the problematic width question—a set of insoles, one thick and one thin, that helps customize the fit. The toe boxes are less square and the overall look is more European athletic, less granola-eating geek.

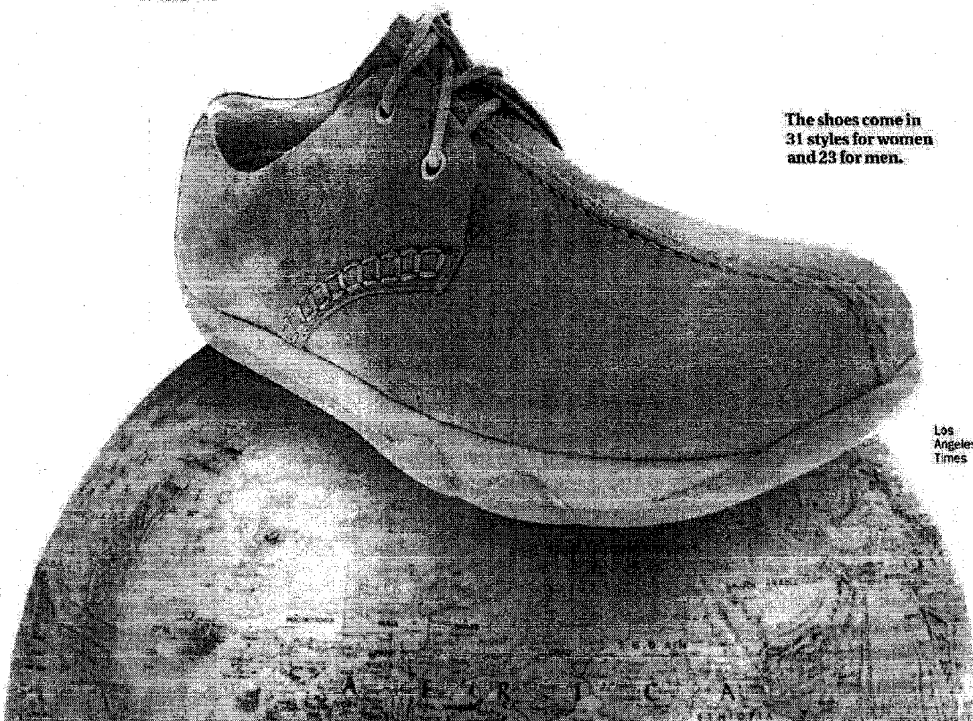
The new shoes still offer Kalso's "negative heel technology," which positions the heel about ¼-inch lower than the toes to create a stance that mimics bare feet walking in sand.

The fall collection offers 31 styles for women and 23 for men; retail prices are from \$99 to \$159—far above the 1974 prices of \$23.50 to \$42.50.

The funky little shoes earned their moniker on April 1, 1970, when importers Raymond and Eleanor Jacobs opened their first shoe store in Manhattan, coincidentally in the midst of the first Earth Day celebration. Eleanor hand-lettered a sign advertising "earth shoes" and the name stuck. The company grew to 110 shops, and competi-

tors cashed in with millions of imitations. By 1977, the company had gone out of production.

The new Earth Shoes are selling in nine countries and 500 stores, including the Walking Company in Santa Monica and Fine Kicks, Boulevard Footwear and Neo 39, all on Colorado Boulevard in Pasadena. The company doubled its \$1-million sales goal in its first season, and the 2002 sales are expected to be \$6 million. Liberge says the company is on track to make it, one low-heeled step at a time.



The shoes come in 31 styles for women and 23 for men.

Los Angeles Times

EXHIBIT 45

*Get down-to-Earth; '70s footwear plods its way back to store shelves Des Moines Register April 12, 2003
Saturday*

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Des Moines Register

April 12, 2003 Saturday

SECTION: IOWA LIFE; Pg. 3E

LENGTH: 675 words

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'70s footwear plods its way back to store shelves

BYLINE: Challenger Mary, Staff

BODY:
By MARY CHALLENGER

REGISTER STAFF WRITER

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WHERE TO BUY EARTH BRAND SHOES

Brown's Shoe Fit (319) 385-2931 Mount Pleasant

Brown's Shoe Fit (641) 423-4144 Mason City

Brown's Shoe Fit (515) 955-8200 Fort Dodge

Lorenz Boot Shop (319) 339-1053 Iowa City

Thompson Shoes (563) 927-2179 Manchester

Tradehome Shoes (515) 232-5742 Ames

Tradehome Shoes (515) 253-3974 Merle Hay Mall, Des Moines

Tradehome Shoes (319) 339-1819 Coral Ridge Mall, Coralville

Younggren's Shoes (319) 524-3071 Keokuk

Illustration_By: WARREN TAYLOR/REGISTER PHOTO ILLUSTRATION

LOAD-DATE: July 25, 2003

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EXHIBIT 46

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The Boston Globe

December 20, 2001, Thursday ,THIRD EDITION

SECTION: LIVING; Pg. D3

LENGTH: 680 words

HEADLINE: THE LOOK;
HEAD OVER HEELS FOR EARTH SHOES

BYLINE: BY TINA CASSIDY, GLOBE STAFF

BODY:

The footwear died. But demand never did.

So says Charlie Liberge, the former Stride Rite executive turned uber-salesman of Earth shoes, the so-ugly-they're-cool brand that disappeared from the hippie landscape in the late- 1970s and reappeared 16 weeks ago in stores and catalogs across America.

Earth shoes' toes are still higher than the heels, and still pretty ugly/cool, in that earthy way. Yet the brand's "negative heel technology," designed by a Danish yoga instructor in the 1950s and first brought to the US market by a couple of awed tourists in 1970 after a European excursion, appear to be nothing but positive in the eyes of many nostalgic consumers. With a couple of exceptions, which we'll discuss later.

The comeback story began about five years ago when the CEO of the Waltham-based shoe manufacturing company Meynard Designs spotted a vintage Levi's ad in Europe - and noticed that the model was wearing Earth shoes. The shoes date back to 1957, when yoga instructor Anne Kalso visited Brazil and noticed that the indigenous people had outstanding posture from walking on sand, their heel prints lower than their toes. She also discovered that by lowering the heel, one could achieve the feeling of the Lotus position in yoga. Eleven years later, she opened the Kalso Minus Heel store in Copenhagen, selling shoes she had developed using the lowered-heel concept.

In the summer of 1969, Americans Raymond and Eleanor Jacobs discovered Kalso's shoes during their European vacation, and they struck a deal with her to sell the footwear in New York, where lines promptly formed out the door. Franchises burgeoned. Demand outstripped supply; lawsuits were filed. The Jacobses, having made quite a bit of money off a shoe they named after Earth Day, closed shop by 1977 and seemed to drop out of sight, even as the shoes were put on permanent display at the Metropolitan Museum of Art.

The Boston Globe, December 20, 2001

Over the years, some fans have hoarded stocks of the shoes in their garage while others have sold them on eBay. Michel Meynard, in the meantime, dreamed of bringing them back to life by buying the rights to the design.

"For people who were tied to the brand in the '70s, it was like losing an arm," says Liberge, who joined the Earth arm of Meynard Designs just over a year ago. He says Earth is not just targeting baby boomers, but the "I Generation" of independent thinkers. "Someone who's a trend leader, not a fad follower . . . It's really a psychographic, not a demographic." When the shoes hit stores this fall, they seemed to capture the zeitgeist of three popular trends: Yoga, retro-chic and, post-Sept. 11, the desire for comfort. Plus the shoe has had a slight face lift.

"We have taken what was primitive in today's world but breakthrough in the '50s and made them lightweight, with Latex soles, multiple insoles so they will fit narrow, medium, or wide widths; we have taken what was good and made it even better," says Liberge.

Suggested retail prices range from \$79 to \$129 for women and \$99 to \$129 for men, but some shops are selling them for more. Earth shoes are available in 12 stores throughout Greater Boston, and will be in another seven by spring. (The company says it thinks college towns - from here to Berkeley - are home to the perfect customer.) None of the shoes can be purchased through www.earthfootwear.com, but shoe retailers are listed there. By next fall, the company hopes to produce some styles with synthetic uppers to placate vegans.

Meanwhile, if the shoes are so great, why wouldn't everyone want to wear them?

Although styles have been buffed to make some appear dressier, Earth shoes still have the general appearance of casual footwear. Also, the shoe cannot be made with any type of a lift. So all those pants in the closet that were tailored with heels in mind will be too long with Earth shoes. Another fact: The shoes take some getting used to. Some wearers report feeling tight shins the day after trying them for the first time, just as if they'd enjoyed a long, barefoot walk on the beach.

GRAPHIC: PHOTO, Above: Anne Kalso, who developed the popular footwear that's making a comeback. Below: An original '70s-style shoe.

LOAD-DATE: December 20, 2001

EXHIBIT 47

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The New York Times

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HEADLINE: Front Row

BYLINE: By Ginia Bellafante

BODY:

Earth Shoe Returns, Walking Tall

Forty-four years ago, a Danish yoga instructor named An rie Kalso took a trip to Santos, Brazil, presumably in the service of bettering her chaturanga. To what extent her flexibility reached guru level is unknown, because history chose to record an unrelated accomplishment. So fascinated was Ms. Kelso by the perfect posture she perceived in Brazilian Indians that she returned to Copenhagen to develop a shoe she hoped would improve the carriage of most of Western Europe.

Together with a shoemaker from Portugal, Ms. Kalso spent the late 1950's and most of the 60's developing such a piece of footwear, testing model after model on hikes of up to 500 miles long. Her painstaking industry yielded one of the most easily mocked fashion objects in modern history: the Earth Shoe, with its distinctive sole that looked like a pie plate waiting for a crust made of spelt.

Actually it wasn't Ms. Kalso who gave the shoe its Woodstock Nation name. She initially called it the Kalso Minus Heel Shoe. When two New Yorkers, Raymond and Eleanor Jacobs, discovered her shoe, with its heel lower than the toes, while vacationing in Europe in 1969, they arranged to distribute it in the United States. They opened a Kalso Minus Heel store on East 17th Street in Manhattan on April 1, 1970, the first Earth Day. Capitalizing on the moment, Ms. Jacobs renamed her inventory Earth Shoes.

The world was receptive. By 1974 there were 60 Earth Shoe stores across the country. The Jacobses were asked to appear on "The Tonight Show." But like all trends, this one cannibalized its first incarnation. Earth Shoes went out of production in 1977.

Now, just at the moment that the provocative fashion magazine Flaunt has summoned a Haight-Ashbury typeface for its most recent cover, and fringed suede and prairie skirts

The New York Times October 30, 2001 Tuesday

bombarded the spring 2002 runways, the Earth Shoe has made a re-entry, thanks to a shoe manufacturer named Michael Menard who spent the last six years acquiring the rights to produce it.

"Comfort, retro, yoga -- this brand touches on all those trends," explained Charles Liberge, executive vice president of newly created Earth Footwear, Mr. Menard's company. "The Volkswagen Bug was making a comeback, Levi's were making a reintroduction. I could see the long-term viability of a brand called 'Earth.' "

There should certainly be some immediate viability in a shoe whose price falls just under \$100. So far, though, the Earth Shoe has not prompted the excavation impulse of irony-enthralled fashion editors to whom Birkenstocks seemed so compelling this summer. The shoe is doing well at J. Jill, a retail chain (and catalog) that caters to the 40-something, SUV-driving mother of three. "She remembers when it came around the first time," Robert Schmidt, a J. Jill buyer, said. "We've had a good reaction."

Heavy Traffic in the Fire Zone

On Sept. 10, Stephen L. Ruzow, who has held the title of honorary fire commissioner in New York for the past year, had a meeting with Michael Gould, Bloomingdale's chief executive, to try to sell him on the idea of promoting a 2002 firefighter's calendar in the store, along with fire department T-shirts, caps and other accessories.

Last year, Mr. Ruzow had set up store called the Fire Zone in Rockefeller Center, the purpose of which was to sell such paraphernalia for the benefit of the Fire Safety Education Fund.

When three firefighters who were to appear in the calendar died at the World Trade Center the following day, plans to produce it were canceled. Bloomingdale's, at Mr. Ruzow's suggestion, went ahead with a plan to replicate a Fire Zone in the Lexington Avenue flagship store.

At the Fire Zone in Rockefeller Center, "sales had been very conservative" before Sept. 11 -- "\$600 to \$800 a day," said Mr. Ruzow, who until Friday was chairman of the Leiber Group, the ailing fashion conglomerate. Since the disaster, in which 343 firemen perished, sales at the Fire Zone have climbed ever upward, reaching an astonishing \$18,000 to \$19,000 a day this past weekend, Mr. Ruzow said. The Bloomingdale's shop, which opened a week ago, has been calling for resupplies three times a day. "We've been taking garbage bags full of clothes over there from Rock Center," Mr. Ruzow said. "We weren't set up for shipping."

URL: <http://www.nytimes.com>

GRAPHIC: Photo: Buying Earth Shoes in 1974, when 60 Earth Shoe stores existed nationwide. (Joyce Dopkeen/The New York Times)

LOAD-DATE: October 30, 2001

EXHIBIT 48

THE SCIENCE OF HAPPINESS • EDIE FALCO'S MOMENT

Newsweek

TARGET: IRAQ

THE WAR OVER WAR

Rumsfeld vs. Powell—
And America vs. the World

\$3.95 US/\$4.95 Canada

37>



newsweek.msnbc.com

TipSheet

rate tuner that works with your cable, satellite or over-the-air provider. Versatility is another point to keep in mind. Both Sony and Samsung have LCD displays that can be used with PCs as well as DVD players and game consoles. For college students, New Yorkers and other people trying to conserve space, these multipurpose displays are a tempting option. And once you go flat, you'll never go back.

FAMILY

TOO OLD TO SCOLD?

YOUR KID IS TURNING 17, so your parenting gig is just about up, right? Way wrong, say the authors of "The Launching Years," due out next month from Three Rivers Press. The last year of high school and the first of college are extremely treacherous times for parents. You can ease the way by realizing that, despite the veneer, most teens are excited *and* terrified about leaving home. Once kids head off to college, effective parents must learn to navigate the rough spots like romance (find a way to "weigh in" without alienating), grades (expect them to slide initially; most recover by sophomore year) and "dumping"—know that your kids will use phone calls home as a release valve for their stress. As the proverb says: Little children disturb your sleep. Big ones disturb your life.

—PAT WINGERT



EARTH SHOES

FEET OF CLAY

"Don't hate me because my shoes are ugly." That's what I felt like telling people who leered at my Heritage 2 model Earth Shoes as I lumbered around NYC. They look like the ones I had in 1975—wide and lumpish, with that trademarked Negative Heel Technology that makes you feel like you're always walking uphill. But amid today's sleek, high-tech sport shoes, an Earth Shoe looks as stylish—and feels as comfortable—as a brick. "Are they orthopedic?" asked a friend. Earth Footwear is re-releasing the old brand for fall, hoping to capitalize on 1970s nostalgia the way VW did with the Beetle. The styles in stores are much lighter than the early pair I tested, though a rep says the shoes do "take getting used to." Kids like 'em, she adds.

Maybe it's an age thing. —LISA MILLER

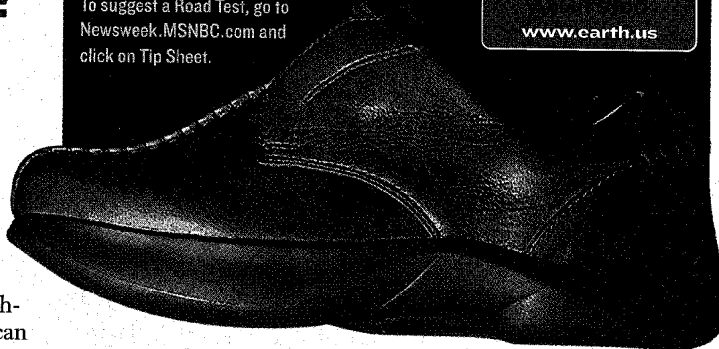
You have to ease into Earth Shoes; break them in just a few hours at a time.

To suggest a Road Test, go to Newsweek.MSNBC.com and click on Tip Sheet.

Earth Shoes

Sole keeps your heel lower than your toes to achieve 'natural body alignment'

www.earth.us



GADGETS

DON'T BREATHE EASY

WOULD YOU decide to drink and drive based on the results of a \$1.49 test? If you would, the makers of the Guardian Angel Personal Alcohol Test are ready to help. Available in drug and grocery stores nationally, the product lets you test your blood alcohol content by licking a chemically treated paper strip (guardianangel.com). Police in several states even gave the strips to motorists over Labor Day weekend.

To assess the Guardian Angel, as well as a \$50 purse-size breathalyzer

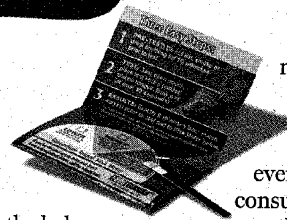
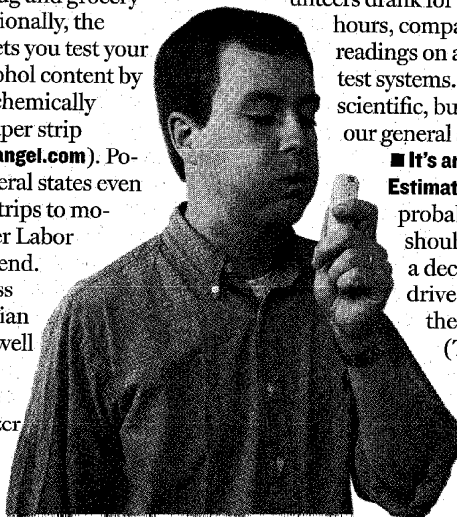
(the PSI BT5500) from Sharper Image, NEWSWEEK enlisted the help of a government official. He brought along the Alcotest 7410 Plus, a \$2,000 machine used by police. Three NEWSWEEK volunteers drank for two

hours, comparing readings on all three test systems. Hardly scientific, but here's our general advice:

■ It's an

Estimate: You probably shouldn't base a decision to drive solely on the results.

(The manufacturers say it's



never smart to drink and drive; Tip Sheet agrees.) However, after moderate consumption, the two lower-priced tests approximated the Alcotest 7410 results.

■ **Follow the Directions:** The saliva strips call for a 10-minute wait after drinking; the \$50 unit suggests a 30-minute pause. Ignoring the instructions skewed the results.

■ **Don't Judge Yourself:** The more the volunteers drank, the more difficulty they had performing and interpreting the tests. Let someone sober read the results.

■ **Lower Limits:** None of our test subjects say they'd feel safe driving with a blood alcohol content remotely near the legal limit—usually 0.08. The bottom line: trust a designated driver before any gadget. —DANIEL MCGINN



MUSIC

KEEP ON ROLLING

ROLLING STONES MAY gather no moss, but they still get plenty of wrinkles. As the rockers (average age, 58.5) begin their Licks World Tour, it'd be easy to pronounce them a sorry relic, a laughingstock. Easy, but wrong. For the upcoming tour—37 remaining dates in 27 cities; tickets are available for many shows—they've stripped away the bells, whistles and lame pyrotechnics of recent tours. The Stones sound—and look—leaner and meaner than they have in decades, resulting in an evening of raw and rousing rock and roll. Jumping Jack Flash is once again a gas.

—MARK STARR

EXHIBIT 49

Orlando Sentinel
OrlandoSentinel.com

THURSDAY, JANUARY 31, 2002

E6 Orlando Sentinel

Revamped Earth shoes bring back '70s sole

Question: I heard a rumor (Oh, tell me that it's true!) that my all-time favorite shoes are back. I refer, of course, to Earth shoes. Yes?

Answer: Yes indeed. Earth shoes have been relaunched. They're still chunky and comfortable, but their styling has definitely been updated for the new millennium.

For those who missed out on Earth shoes the first time around, a little history:

The shoe was designed by Anne Kalso, a Danish yoga instructor, and introduced in Copenhagen in 1968. Called the Kalso Minus Heel shoe for the way the wearer's heel rested lower in the sole than the toes, it was intended to promote a more natural stride and better posture.

Two years later, the shoe crossed the Atlantic and made its debut in New York as the Earth shoe. The date, fortuitously, was April 1 — Earth Day. The shoe was an instant success and soon became the must-have footwear of every self-respecting hippie east of San Francisco.



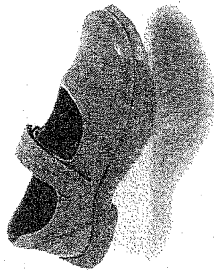
Jean
PATTESON

THE FASHION ADVISER

Earth shoes were advertised for the first time in 1974, and chaos resulted. Lines formed outside Earth stores coast-to-coast, the Los Angeles store changed its phone number four times to avoid incessant customer calls, and the mail-order operation was backlogged by 3,500 pairs. By 1975, there were 135 Earth stores in the United States.

Just a year later, however, the company closed, a victim of lawsuits by store owners squabbling over store locations and upset that the factory could not fill orders fast enough.

Now Earth shoes are back — in a range of trendy colors and



EARTH

Dig in those heels. Like the classic style, the new Earth shoe features a heel that rests lower than the toes.

32 styles for men and women, including clogs, slip-ons, sandals, oxfords and boots. They're available at Nordstrom stores and through the J.Jill catalog (1-800-642-9989) and online at jjill.com.

Mom's wedding woes

Q: My daughter became engaged on New Year's Eve, so now I find myself in the position of mother-of-the-bride for the first time. Already I feel overwhelmed, and the wedding isn't until October! I have seen plenty of books for brides. Surely there must be one for the mother?

A: A book that surely will calm your nerves and guide you through the highs and lows of wedding planning is *The Mother-of-the-Bride Book: Giving Your Daughter a Wonderful Wedding* by Sharon Naylor (Kensington Books, \$18.95).

It includes advice on helping the bride and groom choose a location, band and caterer; shows how to draw up a guest

list, design a seating chart and arrange lodging for out-of-town guests; and provides countless other details. It also includes handy worksheets and checklists.

Best of all, it offers sensible and sometimes humorous tips for keeping your sanity and reminding your daughter's best friend through the whole wild, wonderful process.

Lost & found

Lost: Reader Norma Hassman is looking for cleansing cream and skin freshener by DuBarry. Reader Arlene Parnes is trying to find sweatshirts by 20/20 Sport. She says they have knitted cuffs and a neckline like a mini-mock turtle neck. Another reader is looking for sports-wear with the label **WOMEN'S**.

A Longwood reader is looking for a product that can be sprayed onto jewelry to prevent allergic reactions to the metal.

An Orlando reader wants to know where she can buy wom-

en's sportswear by Sag Harbor. Another Orlando reader is interested in finding a minimizer bra by Lilyette in Style No. 04038.

Winter Park reader Susan Brock is looking for a bridal headband that can be converted into a choker-style necklace. Another reader, who bought a scented candle in a glass jar by Rigaud at Jacobson's a year ago, is looking for refill candles by Rigaud.

Found: Good news/bad news for reader Betty Weidler, who was trying to find men's cargo shorts by Bass Pro Shops, Style No. M039810. It appears that this style has been discontinued. However, similar shorts are available through the Bass pro shops catalog (call 1-800-227-7776) or online at basspro.com.

Fashion writer Jean Patteson welcomes your questions. Mail: Orlando Sentinel, MP-240, P.O. Box 2833, Orlando, FL 32802-2833. Phone: 407-420-5158. E-mail: jpatteson@orlandosentinel.com

EXHIBIT 50



Granola can be trendy

By Deanna Larson, dlarson@nashvillecitypaper.com
November 08, 2005

Boots are big, flats are back — and so are Earth shoes, those lovable lunks from the '70s that "mirrored the effects of walking barefoot in the sand."

Invented by Danish Yoga master Anne Kalso in the late '60s after observing beachcombers walking in the sand in Brazil, the shoe realigned the body by placing the heel slightly lower than the toe.

The Earth shoe with the "Kalso Negative Heel" also had a roomy toe area and claimed to prevent or reduce back pain, and they were all the rage on college campuses.

Now, after 25 years, the yoga-crazed times are right for the rebirth of this therapeutic shoe with modern memory foam insoles, hipper styling and a new claim: that wearing them helps burn approximately 25 percent more calories per hour while walking, similar to working out on a treadmill.

We can't verify that fact, but celebrities including Diane Lane, Gwyneth Paltrow, Salma Hayek, Marcia Cross and Tyra Banks are buying them up like crazy this fall.

The boots come in "vegan" fake suede and fur versions, and Earth offers other cute and current styles including "Converse" type lace-ups and Mary Janes, as well as that love-or-hate-it original for confident people who can stand a little teasing; www.earth.us or www.zappos.com.

—Deanna Larson

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[/index.cfm?section=12&screen=news&news_id=45756](http://index.cfm?section=12&screen=news&news_id=45756)

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IN THE UNITED STATES DISTRICT COURT
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FOR THE DISTRICT OF MASSACHUSETTS

<p>MEYNARD DESIGNS, INC. AND EARTH, INC.</p> <p>Plaintiffs and Counterclaim-Defendants,</p> <p>v.</p> <p>EARTH PRODUCTS INC.</p> <p>Defendant and Counterclaim-Plaintiff.</p>	<p>Civil No. 1:05-CV-11781 NMG</p> <p>Judge Nathaniel M. Gorton</p>
<p>EARTH PRODUCTS INC.</p> <p>Third-Party Plaintiff and Counterclaim-Defendant,</p> <p>v.</p> <p>PLANET, INC.</p> <p>Third-Party Defendant and Counterclaim-Plaintiff.</p>	<p><u>CONTAINS CONFIDENTIAL INFORMATION SUBJECT TO A PROTECTIVE ORDER</u></p> <p>FILED UNDER SEAL WITH THE COURT IN ACCORDANCE WITH THE ASSENTED-TO MOTION TO FILE UNDER SEAL FILED ON OCTOBER 31, 2007 (DOCKET #67) and PER ORDER DATED NOVEMBER 8, 2007</p>

EXHIBIT 62

FILED UNDER SEAL

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

<p>MEYNARD DESIGNS, INC. AND EARTH, INC.</p> <p>Plaintiffs and Counterclaim-Defendants,</p> <p>v.</p> <p>EARTH PRODUCTS INC.</p> <p>Defendant and Counterclaim-Plaintiff.</p>	<p>Civil No. 1:05-CV-11781 NMG</p> <p>Judge Nathaniel M. Gorton</p>
<p>EARTH PRODUCTS INC.</p> <p>Third-Party Plaintiff and Counterclaim-Defendant,</p> <p>v.</p> <p>PLANET, INC.</p> <p>Third-Party Defendant and Counterclaim-Plaintiff.</p>	<p><u>CONTAINS CONFIDENTIAL INFORMATION SUBJECT TO A PROTECTIVE ORDER</u></p> <p>FILED UNDER SEAL WITH THE COURT IN ACCORDANCE WITH THE ASSENTED-TO MOTION TO FILE UNDER SEAL FILED ON OCTOBER 31, 2007 (DOCKET #67) and PER ORDER DATED NOVEMBER 8, 2007</p>

EXHIBIT 63

FILED UNDER SEAL

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

<p>MEYNARD DESIGNS, INC. AND EARTH, INC.</p> <p>Plaintiffs and Counterclaim-Defendants,</p> <p>v.</p> <p>EARTH PRODUCTS INC.</p> <p>Defendant and Counterclaim-Plaintiff.</p>	<p>Civil No. 1:05-CV-11781 NMG</p> <p>Judge Nathaniel M. Gorton</p>
<p>EARTH PRODUCTS INC.</p> <p>Third-Party Plaintiff and Counterclaim-Defendant,</p> <p>v.</p> <p>PLANET, INC.</p> <p>Third-Party Defendant and Counterclaim-Plaintiff.</p>	<p><u>CONTAINS CONFIDENTIAL INFORMATION SUBJECT TO A PROTECTIVE ORDER</u></p> <p>FILED UNDER SEAL WITH THE COURT IN ACCORDANCE WITH THE ASSENTED-TO MOTION TO FILE UNDER SEAL FILED ON OCTOBER 31, 2007 (DOCKET #67) and PER ORDER DATED NOVEMBER 8, 2007</p>

EXHIBIT 64

FILED UNDER SEAL

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

<p>MEYNARD DESIGNS, INC. AND EARTH, INC.</p> <p>Plaintiffs and Counterclaim-Defendants,</p> <p>v.</p> <p>EARTH PRODUCTS INC.</p> <p>Defendant and Counterclaim-Plaintiff.</p>	<p>Civil No. 1:05-CV-11781 NMG</p> <p>Judge Nathaniel M. Gorton</p>
<p>EARTH PRODUCTS INC.</p> <p>Third-Party Plaintiff and Counterclaim-Defendant,</p> <p>v.</p> <p>PLANET, INC.</p> <p>Third-Party Defendant and Counterclaim-Plaintiff.</p>	<p><u>CONTAINS CONFIDENTIAL INFORMATION SUBJECT TO A PROTECTIVE ORDER</u></p> <p>FILED UNDER SEAL WITH THE COURT IN ACCORDANCE WITH THE ASSENTED-TO MOTION TO FILE UNDER SEAL FILED ON OCTOBER 31, 2007 (DOCKET #67) and PER ORDER DATED NOVEMBER 8, 2007</p>

EXHIBIT 65

FILED UNDER SEAL

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

<p>MEYNARD DESIGNS, INC. AND EARTH, INC.</p> <p>Plaintiffs and Counterclaim-Defendants,</p> <p>v.</p> <p>EARTH PRODUCTS INC.</p> <p>Defendant and Counterclaim-Plaintiff.</p>	<p>Civil No. 1:05-CV-11781 NMG</p> <p>Judge Nathaniel M. Gorton</p>
<p>EARTH PRODUCTS INC.</p> <p>Third-Party Plaintiff and Counterclaim-Defendant,</p> <p>v.</p> <p>PLANET, INC.</p> <p>Third-Party Defendant and Counterclaim-Plaintiff.</p>	<p><u>CONTAINS CONFIDENTIAL INFORMATION SUBJECT TO A PROTECTIVE ORDER</u></p> <p>FILED UNDER SEAL WITH THE COURT IN ACCORDANCE WITH THE ASSENTED-TO MOTION TO FILE UNDER SEAL FILED ON OCTOBER 31, 2007 (DOCKET #67) and PER ORDER DATED NOVEMBER 8, 2007</p>

EXHIBIT 66

FILED UNDER SEAL

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

<p>MEYNARD DESIGNS, INC. AND EARTH, INC.</p> <p>Plaintiffs and Counterclaim-Defendants,</p> <p>v.</p> <p>EARTH PRODUCTS INC.</p> <p>Defendant and Counterclaim-Plaintiff.</p>	<p>Civil No. 1:05-CV-11781 NMG</p> <p>Judge Nathaniel M. Gorton</p>
<p>EARTH PRODUCTS INC.</p> <p>Third-Party Plaintiff and Counterclaim-Defendant,</p> <p>v.</p> <p>PLANET, INC.</p> <p>Third-Party Defendant and Counterclaim-Plaintiff.</p>	<p><u>CONTAINS CONFIDENTIAL INFORMATION SUBJECT TO A PROTECTIVE ORDER</u></p> <p>FILED UNDER SEAL WITH THE COURT IN ACCORDANCE WITH THE ASSENTED-TO MOTION TO FILE UNDER SEAL FILED ON OCTOBER 31, 2007 (DOCKET #67) and PER ORDER DATED NOVEMBER 8, 2007</p>

EXHIBIT 67

FILED UNDER SEAL

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

<p>MEYNARD DESIGNS, INC. AND EARTH, INC.</p> <p>Plaintiffs and Counterclaim-Defendants,</p> <p>v.</p> <p>EARTH PRODUCTS INC.</p> <p>Defendant and Counterclaim-Plaintiff.</p>	<p>Civil No. 1:05-CV-11781 NMG</p> <p>Judge Nathaniel M. Gorton</p>
<p>EARTH PRODUCTS INC.</p> <p>Third-Party Plaintiff and Counterclaim-Defendant,</p> <p>v.</p> <p>PLANET, INC.</p> <p>Third-Party Defendant and Counterclaim-Plaintiff.</p>	<p><u>CONTAINS CONFIDENTIAL INFORMATION SUBJECT TO A PROTECTIVE ORDER</u></p> <p>FILED UNDER SEAL WITH THE COURT IN ACCORDANCE WITH THE ASSENTED-TO MOTION TO FILE UNDER SEAL FILED ON OCTOBER 31, 2007 (DOCKET #67) and PER ORDER DATED NOVEMBER 8, 2007</p>

EXHIBIT 68

FILED UNDER SEAL

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

<p>MEYNARD DESIGNS, INC. AND EARTH, INC.</p> <p>Plaintiffs and Counterclaim-Defendants,</p> <p>v.</p> <p>EARTH PRODUCTS INC.</p> <p>Defendant and Counterclaim-Plaintiff.</p>	<p>Civil No. 1:05-CV-11781 NMG</p> <p>Judge Nathaniel M. Gorton</p>
<p>EARTH PRODUCTS INC.</p> <p>Third-Party Plaintiff and Counterclaim-Defendant,</p> <p>v.</p> <p>PLANET, INC.</p> <p>Third-Party Defendant and Counterclaim-Plaintiff.</p>	<p><u>CONTAINS CONFIDENTIAL INFORMATION SUBJECT TO A PROTECTIVE ORDER</u></p> <p>FILED UNDER SEAL WITH THE COURT IN ACCORDANCE WITH THE ASSENTED-TO MOTION TO FILE UNDER SEAL FILED ON OCTOBER 31, 2007 (DOCKET #67) and PER ORDER DATED NOVEMBER 8, 2007</p>

EXHIBIT 69

FILED UNDER SEAL

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

<p>MEYNARD DESIGNS, INC. AND EARTH, INC.</p> <p>Plaintiffs and Counterclaim-Defendants,</p> <p>v.</p> <p>EARTH PRODUCTS INC.</p> <p>Defendant and Counterclaim-Plaintiff.</p>	<p>Civil No. 1:05-CV-11781 NMG</p> <p>Judge Nathaniel M. Gorton</p>
<p>EARTH PRODUCTS INC.</p> <p>Third-Party Plaintiff and Counterclaim-Defendant,</p> <p>v.</p> <p>PLANET, INC.</p> <p>Third-Party Defendant and Counterclaim-Plaintiff.</p>	<p><u>CONTAINS CONFIDENTIAL INFORMATION SUBJECT TO A PROTECTIVE ORDER</u></p> <p>FILED UNDER SEAL WITH THE COURT IN ACCORDANCE WITH THE ASSENTED-TO MOTION TO FILE UNDER SEAL FILED ON OCTOBER 31, 2007 (DOCKET #67) and PER ORDER DATED NOVEMBER 8, 2007</p>

EXHIBIT 70

FILED UNDER SEAL

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

<p>MEYNARD DESIGNS, INC. AND EARTH, INC.</p> <p>Plaintiffs and Counterclaim-Defendants,</p> <p>v.</p> <p>EARTH PRODUCTS INC.</p> <p>Defendant and Counterclaim-Plaintiff.</p>	<p>Civil No. 1:05-CV-11781 NMG</p> <p>Judge Nathaniel M. Gorton</p>
<p>EARTH PRODUCTS INC.</p> <p>Third-Party Plaintiff and Counterclaim-Defendant,</p> <p>v.</p> <p>PLANET, INC.</p> <p>Third-Party Defendant and Counterclaim-Plaintiff.</p>	<p><u>CONTAINS CONFIDENTIAL INFORMATION SUBJECT TO A PROTECTIVE ORDER</u></p> <p>FILED UNDER SEAL WITH THE COURT IN ACCORDANCE WITH THE ASSENTED-TO MOTION TO FILE UNDER SEAL FILED ON OCTOBER 31, 2007 (DOCKET #67) and PER ORDER DATED NOVEMBER 8, 2007</p>

EXHIBIT 71

FILED UNDER SEAL

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

<p>MEYNARD DESIGNS, INC. AND EARTH, INC.</p> <p>Plaintiffs and Counterclaim-Defendants,</p> <p>v.</p> <p>EARTH PRODUCTS INC.</p> <p>Defendant and Counterclaim-Plaintiff.</p>	<p>Civil No. 1:05-CV-11781 NMG</p> <p>Judge Nathaniel M. Gorton</p>
<p>EARTH PRODUCTS INC.</p> <p>Third-Party Plaintiff and Counterclaim-Defendant,</p> <p>v.</p> <p>PLANET, INC.</p> <p>Third-Party Defendant and Counterclaim-Plaintiff.</p>	<p><u>CONTAINS CONFIDENTIAL INFORMATION SUBJECT TO A PROTECTIVE ORDER</u></p> <p>FILED UNDER SEAL WITH THE COURT IN ACCORDANCE WITH THE ASSENTED-TO MOTION TO FILE UNDER SEAL FILED ON OCTOBER 31, 2007 (DOCKET #67) and PER ORDER DATED NOVEMBER 8, 2007</p>

EXHIBIT 72

FILED UNDER SEAL

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

<p>MEYNARD DESIGNS, INC. AND EARTH, INC.</p> <p>Plaintiffs and Counterclaim-Defendants,</p> <p>v.</p> <p>EARTH PRODUCTS INC.</p> <p>Defendant and Counterclaim-Plaintiff.</p>	<p>Civil No. 1:05-CV-11781 NMG</p> <p>Judge Nathaniel M. Gorton</p>
<p>EARTH PRODUCTS INC.</p> <p>Third-Party Plaintiff and Counterclaim-Defendant,</p> <p>v.</p> <p>PLANET, INC.</p> <p>Third-Party Defendant and Counterclaim-Plaintiff.</p>	<p><u>CONTAINS CONFIDENTIAL INFORMATION SUBJECT TO A PROTECTIVE ORDER</u></p> <p>FILED UNDER SEAL WITH THE COURT IN ACCORDANCE WITH THE ASSENTED-TO MOTION TO FILE UNDER SEAL FILED ON OCTOBER 31, 2007 (DOCKET #67) and PER ORDER DATED NOVEMBER 8, 2007</p>

EXHIBIT 73

FILED UNDER SEAL

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

<p>MEYNARD DESIGNS, INC. AND EARTH, INC.</p> <p>Plaintiffs and Counterclaim-Defendants,</p> <p>v.</p> <p>EARTH PRODUCTS INC.</p> <p>Defendant and Counterclaim-Plaintiff.</p>	<p>Civil No. 1:05-CV-11781 NMG</p> <p>Judge Nathaniel M. Gorton</p>
<p>EARTH PRODUCTS INC.</p> <p>Third-Party Plaintiff and Counterclaim-Defendant,</p> <p>v.</p> <p>PLANET, INC.</p> <p>Third-Party Defendant and Counterclaim-Plaintiff.</p>	<p><u>CONTAINS CONFIDENTIAL INFORMATION SUBJECT TO A PROTECTIVE ORDER</u></p> <p>FILED UNDER SEAL WITH THE COURT IN ACCORDANCE WITH THE ASSENTED-TO MOTION TO FILE UNDER SEAL FILED ON OCTOBER 31, 2007 (DOCKET #67) and PER ORDER DATED NOVEMBER 8, 2007</p>

EXHIBIT 74

FILED UNDER SEAL

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

<p>MEYNARD DESIGNS, INC. AND EARTH, INC.</p> <p>Plaintiffs and Counterclaim-Defendants,</p> <p>v.</p> <p>EARTH PRODUCTS INC.</p> <p>Defendant and Counterclaim-Plaintiff.</p>	<p>Civil No. 1:05-CV-11781 NMG</p> <p>Judge Nathaniel M. Gorton</p>
<p>EARTH PRODUCTS INC.</p> <p>Third-Party Plaintiff and Counterclaim-Defendant,</p> <p>v.</p> <p>PLANET, INC.</p> <p>Third-Party Defendant and Counterclaim-Plaintiff.</p>	<p><u>CONTAINS CONFIDENTIAL INFORMATION SUBJECT TO A PROTECTIVE ORDER</u></p> <p>FILED UNDER SEAL WITH THE COURT IN ACCORDANCE WITH THE ASSENTED-TO MOTION TO FILE UNDER SEAL FILED ON OCTOBER 31, 2007 (DOCKET #67) and PER ORDER DATED NOVEMBER 8, 2007</p>

EXHIBIT 75

FILED UNDER SEAL

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

<p>MEYNARD DESIGNS, INC. AND EARTH, INC.</p> <p>Plaintiffs and Counterclaim-Defendants,</p> <p>v.</p> <p>EARTH PRODUCTS INC.</p> <p>Defendant and Counterclaim-Plaintiff.</p>	<p>Civil No. 1:05-CV-11781 NMG</p> <p>Judge Nathaniel M. Gorton</p>
<p>EARTH PRODUCTS INC.</p> <p>Third-Party Plaintiff and Counterclaim-Defendant,</p> <p>v.</p> <p>PLANET, INC.</p> <p>Third-Party Defendant and Counterclaim-Plaintiff.</p>	<p><u>CONTAINS CONFIDENTIAL INFORMATION SUBJECT TO A PROTECTIVE ORDER</u></p> <p>FILED UNDER SEAL WITH THE COURT IN ACCORDANCE WITH THE ASSENTED-TO MOTION TO FILE UNDER SEAL FILED ON OCTOBER 31, 2007 (DOCKET #67) and PER ORDER DATED NOVEMBER 8, 2007</p>

EXHIBIT 76

FILED UNDER SEAL

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

<p>MEYNARD DESIGNS, INC. AND EARTH, INC.</p> <p>Plaintiffs and Counterclaim-Defendants,</p> <p>v.</p> <p>EARTH PRODUCTS INC.</p> <p>Defendant and Counterclaim-Plaintiff.</p>	<p>Civil No. 1:05-CV-11781 NMG</p> <p>Judge Nathaniel M. Gorton</p>
<p>EARTH PRODUCTS INC.</p> <p>Third-Party Plaintiff and Counterclaim-Defendant,</p> <p>v.</p> <p>PLANET, INC.</p> <p>Third-Party Defendant and Counterclaim-Plaintiff.</p>	<p><u>CONTAINS CONFIDENTIAL INFORMATION SUBJECT TO A PROTECTIVE ORDER</u></p> <p>FILED UNDER SEAL WITH THE COURT IN ACCORDANCE WITH THE ASSENTED-TO MOTION TO FILE UNDER SEAL FILED ON OCTOBER 31, 2007 (DOCKET #67) and PER ORDER DATED NOVEMBER 8, 2007</p>

EXHIBIT 77

FILED UNDER SEAL

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

<p>MEYNARD DESIGNS, INC. AND EARTH, INC.</p> <p>Plaintiffs and Counterclaim-Defendants,</p> <p>v.</p> <p>EARTH PRODUCTS INC.</p> <p>Defendant and Counterclaim-Plaintiff.</p>	<p>Civil No. 1:05-CV-11781 NMG</p> <p>Judge Nathaniel M. Gorton</p>
<p>EARTH PRODUCTS INC.</p> <p>Third-Party Plaintiff and Counterclaim-Defendant,</p> <p>v.</p> <p>PLANET, INC.</p> <p>Third-Party Defendant and Counterclaim-Plaintiff.</p>	<p><u>CONTAINS CONFIDENTIAL INFORMATION SUBJECT TO A PROTECTIVE ORDER</u></p> <p>FILED UNDER SEAL WITH THE COURT IN ACCORDANCE WITH THE ASSENTED-TO MOTION TO FILE UNDER SEAL FILED ON OCTOBER 31, 2007 (DOCKET #67) and PER ORDER DATED NOVEMBER 8, 2007</p>

EXHIBIT 78

FILED UNDER SEAL

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

<p>MEYNARD DESIGNS, INC. AND EARTH, INC.</p> <p>Plaintiffs and Counterclaim-Defendants,</p> <p>v.</p> <p>EARTH PRODUCTS INC.</p> <p>Defendant and Counterclaim-Plaintiff.</p>	<p>Civil No. 1:05-CV-11781 NMG</p> <p>Judge Nathaniel M. Gorton</p>
<p>EARTH PRODUCTS INC.</p> <p>Third-Party Plaintiff and Counterclaim-Defendant,</p> <p>v.</p> <p>PLANET, INC.</p> <p>Third-Party Defendant and Counterclaim-Plaintiff.</p>	<p><u>CONTAINS CONFIDENTIAL INFORMATION SUBJECT TO A PROTECTIVE ORDER</u></p> <p>FILED UNDER SEAL WITH THE COURT IN ACCORDANCE WITH THE ASSENTED-TO MOTION TO FILE UNDER SEAL FILED ON OCTOBER 31, 2007 (DOCKET #67) and PER ORDER DATED NOVEMBER 8, 2007</p>

EXHIBIT 79

FILED UNDER SEAL

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

<p>MEYNARD DESIGNS, INC. AND EARTH, INC.</p> <p>Plaintiffs and Counterclaim-Defendants,</p> <p>v.</p> <p>EARTH PRODUCTS INC.</p> <p>Defendant and Counterclaim-Plaintiff.</p>	<p>Civil No. 1:05-CV-11781 NMG</p> <p>Judge Nathaniel M. Gorton</p>
<p>EARTH PRODUCTS INC.</p> <p>Third-Party Plaintiff and Counterclaim-Defendant,</p> <p>v.</p> <p>PLANET, INC.</p> <p>Third-Party Defendant and Counterclaim-Plaintiff.</p>	<p><u>CONTAINS CONFIDENTIAL INFORMATION SUBJECT TO A PROTECTIVE ORDER</u></p> <p>FILED UNDER SEAL WITH THE COURT IN ACCORDANCE WITH THE ASSENTED-TO MOTION TO FILE UNDER SEAL FILED ON OCTOBER 31, 2007 (DOCKET #67) and PER ORDER DATED NOVEMBER 8, 2007</p>

EXHIBIT 80

FILED UNDER SEAL

EXHIBIT 81

Return to Release

Earth Shoe Design Offers Health Benefits & Promotes Weight Loss



walking in Earth shoes versus other shoes.

WALTHAM, MA -- (MARKET WIRE) -- 04/04/2005 -- For the millions suffering with back or foot pain, a radical shoe design may offer non-surgical relief for a variety of common ailments and actually helps burn calories. A university pilot study of the negative-heeled Earth shoe found it provided improved posture and superior comfort. Separate data also stated that people burn approximately 25% more calories per hour while

Earth shoes feature the Kalso® Negative Heel™, a technology developed by Danish Yoga Master, Anne Kalso. The technology positions the heel slightly lower than the toe to promote more natural posture, with the head straight, shoulders rolled back and spine and pelvis aligned, allowing the back to form its natural arch. This posture helps alleviate and prevent back pain in most people.

Protecting spinal alignment is extremely important. Four out of five adults experience back pain at some point in their lives, according to the American Academy of Orthopaedic Surgeons®. Back pain is second only to the common cold as the reason for lost work days in adults under age 45.

The Earth shoe became an icon of the 1970s. Now that Earth shoes have been contemporized in terms of styling and comfort features, many of the same people who bought them in the '70s are buying them again. There is also an onslaught of new Earth customers, including busy college students, professionals who work on their feet all day and senior citizens. Celebrities who wear Earth shoes include stylemakers Gwyneth Paltrow, Pierce Brosnan, Al Pacino, Mariel Hemingway, Alicia Silverstone and Jennie Garth, who said they help her back.

How Earth shoes help you lose weight:

All Earth shoes features the patented 3.7% incline from the heel to the toe. This slight incline not only helps with alignment and stability, but also provides the calorie burning effects one would achieve by walking on a treadmill. According to exercise physiologist Greg Landry, M.S., each 1% incline adds a 7% greater calorie expenditure to an activity. Therefore, the Earth shoes' 3.7% incline, at 7% increase in calorie expenditure per 1% incline, results in a 25.9% increase in calorie expenditure. So, a 140-lb. woman who burns approximately 302 calories when walking 4 MPH for 1 hour in regular shoes would burn 380 calories walking 4 MPH for 1 hour in Earth shoes. If this 140-lb. woman walked 1 hour per day at 4 MPH in Earth shoes every day for a year, burning an extra 78 calories per day, she would lose approximately 8 pounds a year without changing anything else.

Earth shoes are available in numerous leather and non-leather vegan designs, including sandals, work shoes, boots and athletic shoes. Earth shoes carry the American Podiatric Medical Association's seal of approval. For information on Earth Footwear, visit www.earth.us.

Contact:

Lisa Elia

phone: 310-393-9547

fax: 310-393-7918

e-mail: lisaeliapr@aol.com

Return to Release

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

<p>MEYNARD DESIGNS, INC. AND EARTH, INC.</p> <p>Plaintiffs and Counterclaim-Defendants,</p> <p>v.</p> <p>EARTH PRODUCTS INC.</p> <p>Defendant and Counterclaim-Plaintiff.</p>	<p>Civil No. 1:05-CV-11781 NMG</p> <p>Judge Nathaniel M. Gorton</p>
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EXHIBIT 82

FILED UNDER SEAL

EXHIBIT 83

Healthy Shoes

NATURAL POSTURE

Only Earth footwear features KALSO® Negative Heel™ Technology, designed by Danish Yoga Teacher Anne Kalso. Earth's Negative Heel naturally aligns the body, by positioning the heel slightly below the toes.

Similar to the Yoga mountain pose:

- Head is straight
- Shoulders roll back
- Spine and pelvis align
- Toes spread out and relax
- Better breathing and balance
- Back pain disappears*



*And you look
just as good
as you feel!*



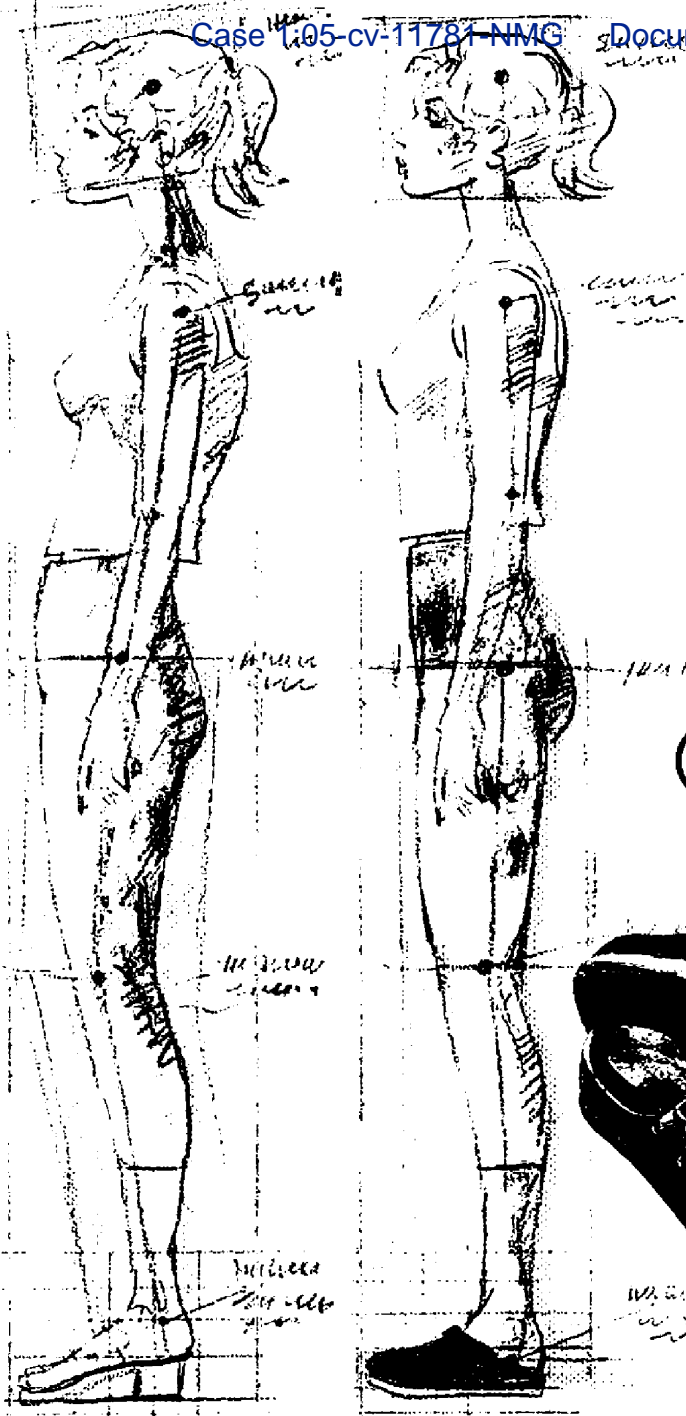
consumer testimonial

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Traditional
Shoes

Negative Heel™
Technology

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

<p>MEYNARD DESIGNS, INC. AND EARTH, INC.</p> <p>Plaintiffs and Counterclaim-Defendants,</p> <p>v.</p> <p>EARTH PRODUCTS INC.</p> <p>Defendant and Counterclaim-Plaintiff.</p>	<p>Civil No. 1:05-CV-11781 NMG</p> <p>Judge Nathaniel M. Gorton</p>
<p>EARTH PRODUCTS INC.</p> <p>Third-Party Plaintiff and Counterclaim-Defendant,</p> <p>v.</p> <p>PLANET, INC.</p> <p>Third-Party Defendant and Counterclaim-Plaintiff.</p>	<p><u>CONTAINS CONFIDENTIAL INFORMATION SUBJECT TO A PROTECTIVE ORDER</u></p> <p>FILED UNDER SEAL WITH THE COURT IN ACCORDANCE WITH THE ASSENTED-TO MOTION TO FILE UNDER SEAL FILED ON OCTOBER 31, 2007 (DOCKET #67) and PER ORDER DATED NOVEMBER 8, 2007</p>

EXHIBIT 84

FILED UNDER SEAL

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

<p>MEYNARD DESIGNS, INC. AND EARTH, INC.</p> <p>Plaintiffs and Counterclaim-Defendants,</p> <p>v.</p> <p>EARTH PRODUCTS INC.</p> <p>Defendant and Counterclaim-Plaintiff.</p>	<p>Civil No. 1:05-CV-11781 NMG</p> <p>Judge Nathaniel M. Gorton</p>
<p>EARTH PRODUCTS INC.</p> <p>Third-Party Plaintiff and Counterclaim-Defendant,</p> <p>v.</p> <p>PLANET, INC.</p> <p>Third-Party Defendant and Counterclaim-Plaintiff.</p>	<p><u>CONTAINS CONFIDENTIAL INFORMATION SUBJECT TO A PROTECTIVE ORDER</u></p> <p>FILED UNDER SEAL WITH THE COURT IN ACCORDANCE WITH THE ASSENTED-TO MOTION TO FILE UNDER SEAL FILED ON OCTOBER 31, 2007 (DOCKET #67) and PER ORDER DATED NOVEMBER 8, 2007</p>

EXHIBIT 85

FILED UNDER SEAL

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

<p>MEYNARD DESIGNS, INC. AND EARTH, INC.</p> <p>Plaintiffs and Counterclaim-Defendants,</p> <p>v.</p> <p>EARTH PRODUCTS INC.</p> <p>Defendant and Counterclaim-Plaintiff.</p>	<p>Civil No. 1:05-CV-11781 NMG</p> <p>Judge Nathaniel M. Gorton</p>
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EXHIBIT 86

FILED UNDER SEAL

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

<p>MEYNARD DESIGNS, INC. AND EARTH, INC.</p> <p>Plaintiffs and Counterclaim-Defendants,</p> <p>v.</p> <p>EARTH PRODUCTS INC.</p> <p>Defendant and Counterclaim-Plaintiff.</p>	<p>Civil No. 1:05-CV-11781 NMG</p> <p>Judge Nathaniel M. Gorton</p>
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EXHIBIT 87

FILED UNDER SEAL

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

<p>MEYNARD DESIGNS, INC. AND EARTH, INC.</p> <p>Plaintiffs and Counterclaim-Defendants,</p> <p>v.</p> <p>EARTH PRODUCTS INC.</p> <p>Defendant and Counterclaim-Plaintiff.</p>	<p>Civil No. 1:05-CV-11781 NMG</p> <p>Judge Nathaniel M. Gorton</p>
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The Honolulu Advertiser

ISLAND LIFE

SECTION E • honoluluadvertiser.com/islandlife

MONDAY • JANUARY 14, 2002

Nostalgic items out to regain footing

By Bonnie Bing
KNIGHT RIDDER NEWS SERVICE

The first of the year is always a time for reflection on the past, with a heavy dose of nostalgia.

But going into the new year, it looks as if those in the fashion and beauty business hope looking back will make for a bright future.

The original Earth Shoe, wildly popular in the early '70s, is one example. Once the ugliest footwear known to man, the shoes have been redesigned, but they still have

the "Negative Heel Technology" that makes you feel like you're leaning backward, until you get used to them. The shoes were developed by Danish yoga master Anne Kaiso.

A couple of my friends were bent out of shape in the '80s because they couldn't find Earth Shoes. Of course, they were also still trying to find themselves.

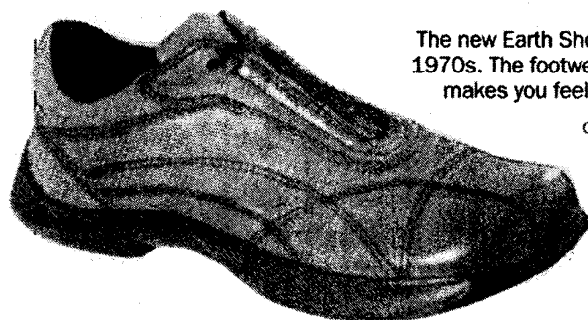
Thanks to the clunky shoe styles we've seen in the past decade, the new Earth Shoe's substantial styling isn't a shock like it was the first time around, and the

styles are much better.

In college, a friend of mine said she would have considered marrying one guy she dated, but he insisted on wearing his Earth Shoes everywhere. And in her opinion, you are what you wear on your feet.

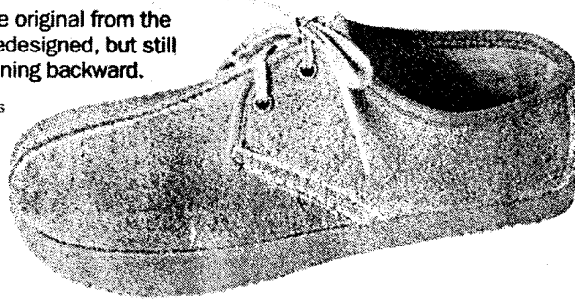
Today he's a heart surgeon. Think how happy he'll be with the new selection of styles.

Marketing manager Vern Aisner said his company is working to bring Earth



The new Earth Shoe, left, and the original from the 1970s. The footwear has been redesigned, but still makes you feel like you're leaning backward.

Courtesy Earth Shoes



continued...

Shoes to Hawai'i outlets. In the meantime, he said they can be purchased online at planetshoes.com and pegasusshoes.com.

If the nostalgia of Earth Shoes isn't enough to rock you back on your heels, how about the Breck Girls? Remember them? Brooke Shields, Christie Brinkley and Cybil Shepherd were Breck girls featured in print ads by the 72-year-old hair care company. The eye-catching ads were portraits instead of photos.

Get ready to see new Breck Girls ads because the owner of the brand's marketing rights, the Himmel Group, said they hope memories of them will mean sales.

The executives are keeping mum on who the first new Breck Girl will be, but they say we shouldn't assume she'll be young. Those of us who are old enough to remember the original Breck Girls are

their target demographic for the launch.

Also from the '70s is Ultrasuede, the soft fabric that was hot, hot, hot. Halston was one designer who used it for everything from casual clothes to evening wear.

The Ultrasuede marketing team is quick to point out that many clothing and accessory designers are using the man-made, washable suede for everything from cowboy boots to backpacks, baby bibs to headbands.

Gloves, gowns, sandals, handbags, dresses, jeans and almost everything you can wear is being made of Ultrasuede. All right, probably not pajamas or underwear, but those will be next.

At least the new versions of Earth Shoes and Ultrasuede are better than ever.

We'll have to see about the Breck Girl when she appears in a couple of months.

► On the Web: www.earthfootwear.com

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EXHIBIT 101

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EXHIBIT 102

Short Takes

Auroras in caves:

omens of imminent battle. And in arctic regions where auroras are extremely common, they were often believed to be spirits of the dead, specifically, suicides or those killed in battle. And so it's possible, Siscoe claims, that prehistoric man attributed similar mystical or magical qualities to the strange lights in the sky. ♦



Negative Heels: Creative Discomfort?

Earth Shoes, that curious phenomenon in footwear that has swept the country with an assortment of boots, sandals and moccasins with "negative-heels" (heels lower than the forepart of the shoe sole), have run up against some well-heeled criticism.

According to David C. Bachman, M.D., a Chicago orthopedic surgeon who was cited in an article on Earth Shoes in *Today's Health*, negative-heel shoes of any sort (there are about 90 imitators on the market, as well as the original Earth Shoe brand) may cause people to damage their knees by hyperextending them while walking; in effect, bending them in the wrong direction.

Earth Shoes, invented in 1957 by a Danish yoga student named Anne Kalso, reputedly improves posture and an assortment of foot-ills by simulating the "natural" stride of Brazilian Indians; but, asserts Dr. Bachman, "flattening of the back occurs normally when a person walks barefoot or in flat heels; there is no need for the extreme of negative heels."

Added Dr. James Moore, chairman of the department of orthopedics and assistant director of the Illinois College of Podiatric Medicine, "Negative heels are a fad. The normal foot probably wouldn't have any problems, but I doubt there would be any advantage, either."

In the first clinical study undertaken to assess the value of negative-heel shoes, researchers at the California Podiatric Medical Center in San Francisco found that people with flat feet, very high arches, short calf muscles, and short Achilles tendons were liable to develop tendonitis (inflammation of the tendon) while adjusting to the negative heel. The researchers also advised diabetics to avoid the shoes, claiming that poor circulation and lack of adjustment to the heel might cause slow-healing foot lesions.

In the remainder of the footwear population, however, Earth Shoes are okay, according to the study. In fact, wearers may get some relief from as many as five types of foot aches, including crooked big toes with bunions, hammer toes (corns on little toes), Haglund's deformity (bump on the back of the heel), tailor's bunion (enlargement on little toe) and calluses on the ball of the foot. People with mildly flat feet, the study said, might also benefit from negative-heel shoes. ♦

EXHIBIT 103

Is There Anything Positive About Negative-Heel Shoes?

An investigation into a form of footwear that really lets you dig your heels in.

By Mark Martin

When you first try on a pair of negative-heel shoes you feel as though you're falling over backward. In fact, you look as though you're falling over backward until you get the knack of walking in them, which may take as long as two weeks (a potentially painful break-in period) and, in some cases, may never happen. Aesthetically, they have been known to raise doubts in the minds of even the most sensibly shod grandmothers.

And yet Earth Shoes, the first and most popular make of negative-heel footwear, have sold more than a million pairs worldwide, and stimulated the manufacture of almost 90 imitations. Their cult has grown from a handful of college students to legions of people of all ages and life-styles, including more than a few of those same grandmothers. As with any cult fashion, the new shoes arouse passionate reactions in normally reasonable persons. "I wouldn't wear them if you put a gun to my head," and "I'll never wear anything else again" are two of the milder statements opinion-seekers have elicited. There seems to be no middle ground.

Why all the fuss? For one thing, the revolutionary style seems to have struck a sympathetic chord in those for whom "natural" is synonymous with "good." And that is exactly what their creator intended. Back in 1957, a Danish yoga student named Anne Kalsø discovered, while walking near the city of Santos, Brazil, that if she raised the front of her foot slightly with each stride, she achieved what she calls, in yoga-ese, "standing lotus posture." As she recalls, "I hurried to a local shoe-maker. Talking no Portuguese, I explained with my hands that he should remove the heels of my sandals and put a block of wood under the forepart."

Shortly after this incident, while walking on the beach, Mrs. Kalsø noticed that the Brazilian Indians,

traditional models of correct posture, had left footprints in the sand in which the heel appeared deeper than the rest of the foot! It seemed to be proof that the negative-heel sole was nature's own design, the closest man could come to primitive correctness and still be acceptable in polite company. This was all the evidence Mrs. Kalsø needed. Adding to her design a high arch support, additional toe room, and a rise in the metatarsal area, she launched the Earth Shoe.

In light of all that has happened since, it is worth noting that Mrs. Kalsø's initial concern was with people's diaphragms, not their arches. It seems that, unlike the raised heel of an ordinary shoe, which throws the body forward into an unnatural position, a lowered heel exerts a downward pull on the back of the leg, supposedly benefiting the whole body. Calf and thigh muscles are straightened and made more flexible, the pelvis is kept from slouching forward, the back straightens, and—this is the crucial point—the diaphragm is free to move more naturally. And this makes respiration easier, according to Mrs. Kalsø. "At first I was looking for a way to help people's breathing and wasn't thinking of their feet," she explains.

Not surprisingly, the postural benefits of the shoes are a matter of some controversy within the medical community. Mrs. Kalsø, after all, is not an orthopedic surgeon, nor even a podiatrist, the two professionals who most often treat the painful results of her invention on persons whose feet have failed to keep pace with their "natural" thinking. It turns out that there are many of us who should steer clear of the negative-heel shoe. According to the first clinical study done by the California Podiatric Medical Center, in San Francisco, people included are those with very flat feet, very high arches, or short calf muscles and those with a short



Achilles tendon (often the result of a lifetime of walking on unnaturally high heels)—all of whom are prone to develop tendinitis, or inflammation of the tendons, when introduced to the new style of walking. In addition, diabetics with poor circulation are advised not to wear the shoes, as the angle they impose on unaccustomed feet is liable to promote very slow-healing lesions.

"The remaining 70 percent of the general population, concludes the study, should have no difficulties beyond the aches and pains of initial adjustment." As a matter of fact, they stand to benefit from a reduction of symptoms of five of the seven most common feet problems, these being hallux valgus (crooked big toe with bunion on the side); hammer toes (corns on little toes); tailor's bunion (an enlargement on the little toe); Haglund's deformity (a bump on the back of the heel); and plantar metatarsal callus (callus on the ball of the foot). People with mildly flat feet also experience an easing of symptoms.

As reported in the May 1975 issue of the *Journal of the American Podiatry Association*, the study—underwritten by Kalsø Systemet, Inc., manufacturers and distributors of Earth Shoes—tested an admittedly small sample of 157 people. Furthermore, it failed to take into account the risk of developing knee problems in otherwise healthy individuals. According to David C. Bachman, M.D., a Chicago orthopedic surgeon, the risk is very real indeed, as the structure of the shoe causes people to hyperextend their knees, bend them too far in the wrong direction.

Dr. Bachman does not recommend Earth Shoes. They may, as was noted, cause damage in some people but, more importantly, he thinks they are just plain unnecessary. "Flattening of the back occurs normally when a person walks barefoot or in flat heels; there is no need for the extreme of negative heels," he says.

That nature's way is not Mrs. Kalsø's, despite her perception of Indian heel-prints, is also the conclusion of James Moore, D.P.M., chairman of the Department of Orthopedics and assistant director of the world's largest foot clinic, at the Illinois College of Podiatric Medicine

in Chicago. "The imprint of the heel usually isn't any lower than that of the front of the foot," he explains. "It's only at the start of the gait that the heel makes a deeper impression." (In fact, it is the slight rolling motion of the foot, notes Steele F. Stewart, M.D., of the Honolulu Medical Group, in an article on the history of footgear in *Clinical Orthopaedics*, that "permits the foot to adjust to surface irregularities" when walking. Dr. Stewart's description of man's first shoe, discovered in caves near Ft. Rock, Oregon and dating from 10,000 years ago, makes no mention of negative heels. Rather, the original item was a flat sandal, made of sagebrush bark.)

"Negative heels are a fad," insists Dr. Moore. The normal foot probably wouldn't have any problems, but I doubt there would be any advantage, either." Not so, says Morton Walker, D.P.M., a Connecticut podiatrist from a shoe-making family, who devotes his time to medical writing. "The Earth Shoe is a superior product. But most of the imitations lack the Earth Shoe's orthopedic benefits and aren't as well made."

Given the public's love for something controversial and new in everyday fashions; given the back-to-nature movement that is so prevalent in society today and that emphasizes dressing down, and living casually; and given the big health angle that has received prominent attention in Earth's advertising—it was inevitable that lots of people would want to buy negative-heel shoes, and equally predictable that other people would want to make and sell such a popular item. Of course, by law, all similar products must vary from Earth's patented design, but most stick as close as possible to Mrs. Kalsø's recognizable exterior and vary instead the shoe's interior construction.

Perhaps the one that is closest to its model is the Canadian-made Root Shoe, which boasts a cult all its own. It features a "recessed heel" that feels much like Earth's, though it isn't as low as the original. The Thom McAn Exersole, the Guru, and the Terra Firma shoe are three additional products that seek a slice of this new territory in the shoe market. Some of these competitors do not actually have a negative heel at all, but only a flat

one. Most produce only one style, based on Mrs. Kalsø's original model 110 walking shoe, but Earth Shoes themselves now come in 10 different styles, including sandals, oxfords, moccasins, and boots.

"Things that are natural," Anne Kalsø told me, "always look good." There are a lot of people, apparently, who agree with her: From a cottage industry in Denmark, the Earth Shoe has grown to an international business concern. Mrs. Eleanor Jacobs, co-founder with her husband of the firm that produces and markets Earth Shoes for sale outside of Scandinavia, recounts the unorthodox story of the shoes' introduction to the wider world.

"My husband, Ray, and I contacted Anne Kalsø in 1969 to ask her if we could market the shoes in the United States. She asked, 'Are you in the shoe business?' We weren't of course. Ray was a photographer and I was a painter. 'Good. Then we'll discuss it,' she answered. She had already turned down a lot of American businessmen who wanted to import them, for fear they'd just market them as an ordinary commercial product."

No such dismal fate was in store for Mrs. Kalsø's invention. The Jacobsses agreed to pay her a royalty for the manufacturing and distribution rights outside Scandinavia. They began with a store in Manhattan and now distribute to more than 80 stores in this country, Canada, and Germany. To produce the shoes, they bought a bankrupt factory in Middleboro, Massachusetts, in 1972, employing 300 people. Almost all Earth Shoes sold in the United States are made there, except for a few models whose parts are shipped to Middleboro from Denmark.

And so it would appear that Earth Shoes are here to stay, along with Root Shoes and all the other like-minded products that don't bother Mrs. Kalsø at all. "Why everybody is pretending they're us," stated a sly headline in a recent Earth Shoe ad, pointing out that imitation is the sincerest form of flattery. "Because they're the only comfortable shoe in the world," a devotee told me the other day.

"Because they're so ugly that people think they must be good for you," disagreed a rabid antinegative-heeler. Obviously, the bottom line hasn't been written on Earth Shoes yet.